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Testimony of

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before the

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Subcommittee on Courts and Competition Policy of the
Committee on the Judiciary**

Regarding

**A Hearing on “A New Age for Newspapers:
Diversity of Voices, Competition and the Internet”**

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Introduction

This testimony is given on behalf of the citizens and consumers that are members of Free Press. Free Press is a national, nonpartisan organization working to reform the media. Through education, organizing and advocacy, we promote diverse and independent media ownership, strong public media, and universal access to communications. The organization was launched in 2002, and today Free Press is the largest media reform organization in the United States, with nearly half-a-million activists and members and a full-time staff of more than thirty.

As the name of the organization implies, we have a strong interest in the future of journalism and the vibrancy of the news marketplace. We have witnessed the declining newspaper business with great concern – and we are currently engaged in a broad effort to solicit ideas from the public, scholars, and advocates about what the response to this crisis should be, and more particularly, what government's response should be. Informed by these ongoing discussions, the purpose of this testimony will be to offer four sets of ideas:

- 1) A short analysis of the crisis in journalism today;
- 2) Arguments about why we need journalism and a resolution to the crisis;
- 3) Arguments about what are the *wrong* solutions to the crisis;
- 4) Arguments about where to start looking for the *right* solutions.

The Press and its Problems.

The crisis in the newspaper business is often portrayed as if it were monolithic – a common disease that is affecting all newspapers alike. This is not the case. The crisis in the newspaper business is actually made up of various problems that affect different news outlets differently, on different time-tables, and with different outcomes. It is a mistake to diagnose a common disease for all newsrooms; and it is a mistake to assume that one solution will be right for everyone.

There are three major phenomena occurring in the newspaper industry: One is the collapse of some fairly large daily newspapers. The second is the shift of audiences to the Internet, which brings a decline in circulation and advertising revenue. The third is the increased ease of access to competing sources of news and information that are freely available and often higher quality. Notably, the demand for text-based news is at an all-time high – the readers simply cannot be monetized at the same rate as in the past. As we might expect, papers with high value-added content that is not available from multiple sources over the Internet, such as small market local dailies and weeklies, are not in a crisis. These papers also retain a resilient local advertising market for goods and services. The largest and most famous brand-name papers are also experiencing the crisis differently. They are witnessing a massive increase in overall readership through the Internet; and we have seen some use interesting experiments with online news presentation. As Dr. Mark Cooper of the Consumer Federation of America has pointed out – the most immediate problem is in the mid-sized markets.¹

We should begin with this most visible problem – the collapse of large metro daily newspapers, exemplified by papers that have closed down completely, like the *Rocky Mountain News*, and large newspaper chains with substantial papers that are teetering on the brink of insolvency, like the Hearst Corporation. These newspapers—and others like them—suffer from all of the common ailments brought by the Internet, but they are also the victims of self-inflicted wounds. Throughout the last fifteen years, major newspaper companies have pursued business models of consolidation. The short term benefit of

¹ See: Cooper, "The Future of Journalism is Not in the Past,"
<http://www.fordham.edu/images/undergraduate/communications/the%20future%20of%20journalism-huff.pdf>

mergers is an increase in revenue and market share. The long term consequence is a mounting debt load. In the current crisis of capital liquidity, servicing this debt has become an unbearable burden. But even without the economic downturn, these debts may have sunk the ship.

But that does not necessarily mean that the core business of news production is not profitable. In many instances, papers that are nearing bankruptcy actually have profitable newsrooms—often with double-digit margins. McClatchy's newspapers saw a 21% profit margin in 2008. Yet, the company still cut its work force by nearly a third in the past year as it struggled to finance the \$2 billion it owes from acquiring Knight Ridder in 2006.² Gannett's newspaper holdings enjoyed an 18% profit margin last year, with some papers earning as much as 42.5%.³ Nevertheless, Gannett slashed 3,000 jobs and forced employees to take a week-long furlough while Gannett's top executives still received six-figure bonuses.⁴ The relentless pressure from Wall Street for ever-higher quarterly returns has been entirely unrealistic for these businesses. Consequently, it is likely that a major city will soon be without a daily newspaper.⁵

Stepping back, we can see the newspaper business is heading towards a waterfall. But different papers are in different places on the river, for a variety of different reasons. And some are even successfully paddling back upstream. Over time, however, most will likely go over. There is little evidence to suggest that enough American consumers will be reading print newspapers two decades from now to sustain the majority of the current business models. Technological change is breaking apart the traditional print marketplace and it will likely break the broadcast news market as well. There is no obvious business model for monetizing online readers at the same rate of return as print or broadcast audiences. For many decades, advertising-supported, mass produced newspapers have had a virtual license to print money. That is coming to an end.

The declines in circulation and advertising revenue brought on by the Internet are slowly drawing these papers into a downward spiral. Revenue declines and shareholder demands force budget cuts. Budget cuts force layoffs. Layoffs mean fewer journalists and fewer stories. This translates directly into a lower quality product, fewer readers, less advertising...and so on. Many companies have tried to get out ahead of this trend by making massive cuts to staffing in the newsrooms. They have merely robbed Peter to pay Paul – ending up in the same place.

The outlook is not all dark. There are marvelous new experiments in news production cropping up all over the marketplace.⁶ Generally speaking, the elements of the newspaper are disaggregating into specialty operations – small groups of journalists who cover local governments, sports, or provide investigative reports. The blogosphere is simply exploding with journalistic production of all kinds. Though it is predominantly political commentary based on discussions of news produced elsewhere, there

² Nat Ives, "It's Not Newspapers in Peril; It's Their Owners," *Ad Age*, Feb. 23, 2009. See also, Craig Aaron and Joseph Torres, "Consolidation won't save the media," March 26, 2009.

<http://www.guardian.co.uk/commentisfree/cifamerica/2009/mar/26/pelosi-media-consolidation>

³ "Documents reveal double-digit profit margins at scores of papers now on verge of massive layoffs," Gannett Blog, Nov. 28, 2008 <http://gannettblog.blogspot.com/2008/11/documents-reveal-double-digit-profit.html>

⁴ Richard Perez-Pena, "Gannett to Cut 10% of Workers as Its Profit Slips," *New York Times* Oct. 28, 2008; Richard Perez-Pena, "Gannett to Furlough Workers for Week," *New York Times*, Jan. 15, 2009. Randy Turner, Gannett Executives Receive Nearly \$2 Million In Bonuses, Golden Parachute, Amid Layoffs And Foldings, March 18, 2009 http://www.huffingtonpost.com/randy-turner/gannett-executives-receiv_b_176435.html

⁵ Mark Fitzgerald, "Several Cities Could Have No Daily Paper as Soon as 2010, Credit Rater Says," *Editor & Publisher*, Dec. 3, 2008.

⁶ See, for example: Global Post <http://www.globalpost.com/>; ProPublica <http://www.propublica.org/>; MinnPost <http://www.minnpost.com/>; and Voice of San Diego <http://www.voiceofsandiego.org/>

is also a new surge in original reporting.⁷ Aggregated citizen journalism is also a new and relevant phenomenon that we should consider in this equation.⁸

In large part, these online outlets survive with a combination of volunteer labor and revenue coming from ads, charitable foundations, and reader contributions. None has the financial base to scale up to replace the quantity and scope of news production that is disappearing around them – even in combination. And it is not clear that they ever will.

Imagine a scenario in which a big city daily collapses. We can assume that some percentage of the advertising revenue that once went to that newspaper will flow to the alternative news outlets. But it is unlikely to be 100%. And the size of the pie was already diminishing – which is a big part of why the newspaper collapsed. The question then is whether the alternative outlets can survive on the Internet-based advertising support that remains in the market. But more important still is whether we should simply be looking to replace the status quo quantity and quality of reportage. There is widespread public dissatisfaction with the quality of journalism in the mainstream media today. This is largely due to the cycle of budget cuts, staff layoffs, and profit-driven topic selection that has contributed to the current crisis. So, we must not ask whether the advertising money that will shift to alternative outlets is enough to keep the news flowing as it does today – we must ask what must be done to use this crisis as an opportunity to change the status quo and create something better.

Why We Need Journalists

The decline of print newspapers doesn't mean the decline of journalism. Or at least, it doesn't have to – and it absolutely shouldn't if we care about the health of our democracy. Internet icon and NYU professor Clay Shirky summed it very cogently in a recent, much discussed article: "Society doesn't need newspapers. What we need is journalism."⁹

I will add to that a corollary. What we need to have journalism is journalists – and lots of them. The biggest problem we face today is not the collapsing business model of print newspapers, it is the possibility that this market failure will result in the dissipation of tens of thousands of highly trained and experienced reporters into other sectors of the economy. Or that it will dissuade tens of thousands of talented students from going to journalism school.

I am not arguing that all journalists must be professionally trained to earn the moniker. Nor am I arguing that professionally trained journalists are necessarily better than those who are not. But I am arguing that for the future of journalism to work, we need to create and sustain a model of news production in which it is possible to earn a living writing the news. And to return to my earlier vision that this crisis is an opportunity – we should strive for a model that makes it possible for *more* journalists than are working today to earn a living writing the news.

The disintermediation of newspapers into thousands of online forums suggests that the technology will facilitate this expansion of scope in topic, style, perspective, and focus. The natural bubbling up of the blogosphere into a major force of information distribution is an extraordinarily positive sign. But we have not yet seen good evidence that the current market transition will leave a financial foundation broad

⁷ See, for example, Firedoglake.com; HuffingtonPost, <http://www.huffingtonpost.com/>; TPM <http://www.talkingpointsmemo.com/>

⁸ Amanda Michel, "Get Off the Bus: The future of pro-am journalism," *Columbia Journalism Review*, March / April 2009. http://www.cjr.org/feature/get_off_the_bus.php

⁹ Clay Shirky, "Newspapers and Thinking the Unthinkable," March 2009, <http://www.shirky.com/weblog/2009/03/newspapers-and-thinking-the-unthinkable/>

enough to replace and surpass the functions of the traditional news media market that meet public needs. I hope it will. But I doubt it.

There are too many things that institutions of journalism do (even if they do them badly) that the online marketplace of volunteerism seems ill-suited to replicate. For the most part, these are the expensive beats and the “democracy beats”. The expensive beats include international coverage, investigative reporting, and process stories. “Democracy beats” include coverage of local government, state capitols, and the expenditure of public money as well as oversight of major centers of private economic power. The blogosphere has done admirable work in breaking stories in all of these places. But the requirements of long term relationship building with sources, months of investigation before publication, travel, and the drudgery of coverage in slow news times all seem to defy the current market for news absent institutional support. Sampling from the *Washington Post*, think about stories like the exposure of neglect at Walter Reed Hospital complex, the dispatches from Anthony Shadid in the Middle East, or the coverage of school boards and county executives across the greater Washington region.

Beyond these practical questions, there is the critical importance of trust between reader and reporter. Historically, newspapers have built into their brands a high degree of credibility over time. Even when they fail to carry the public burden of that trust – the expectation is there. It is there because even in a world of unlimited online sources, most readers will still receive their information from only a few sources. Here is Dr. Cooper again on this issue: “To build trust the new journalism will have to produce a steady stream of output that readers find authoritative, correct and useful. To ensure the quality of output, they will need to routinize the roles of reporter and editor and find ways to ensure that the reporters and editors have resources to do their jobs.”¹⁰ We need to begin to think about ways to help facilitate the transition and blending of the most valuable elements of institutional journalism into the exciting maelstrom of collaborative production on the Internet. But before we put all of our eggs in the online basket, we must reckon with the fact that nearly a third of the country is not connected to high-speed Internet today.

The consequences of failure here are rather severe. A loss of journalists and the corresponding loss of journalism open up a host of problems for a democratic society. Historian Paul Starr notes the correlation between government corruption and a dearth of news coverage.¹¹ That is a particularly notable concern at a time when the federal government is pumping a trillion dollars of public money into thousands of projects across the country. The fact or even the possibility of oversight by the Fourth Estate is a powerful disciplining force. But even more central to democracy are the tenets of Jeffersonian theory that the gathering and distribution of news to a society is the essential lifeblood of self-government. Today we are already witnessing historic inequalities in information and knowledge gaps when it comes to the key issues of public government. In no small part this is due to the decline of journalism over the last decade. The current crisis in the industry should signal an opportunity for revitalization of that which is most important to democratic society.

Wrong Answers: Bailouts and Consolidation

Quite rightly, people get alarmed when they hear that the daily newspaper in their city is about to stop publishing. And the first reaction is typically akin to how to patch the hole in the levee. But we must resist that impulse as the only answer to this crisis. We need a new and better levee.

¹⁰ Cooper, “The Future of Journalism is Not in the Past.”

¹¹ Paul Starr, “Goodbye to the Age of Newspapers (Hello to a New Era of Corruption),” *The New Republic*, March 4, 2009, http://www.tnr.com/story_print.html?id=a4e2aafc-cc92-4e79-90d1-db3946a6d119

It is especially important to resist the temptation of bailouts because the first papers to fail will be those who least deserve a bailout. Those are the papers whose own business decisions placed them under a crushing debt-load in pursuit of consolidated ownership and short-term gains. Few could welcome handing Sam Zell a fat check from the Treasury after his ill-fated adventure with the Tribune Company. That's not to say we should let the journalism or the journalists fade away. But there are other ways to preserve those critical elements that do not involve bailouts.

We should also avoid addressing the problems wrought by consolidated ownership by permitting further consolidation. Uniting two failing business models will not produce a success any more than tying together two rocks will suddenly make them float. Unfortunately, in hard economic times, the default position of several media companies has been to try to achieve savings through consolidation and syndication. While expanding scale might pay short-term dividends, in the long run it will deepen debt, shed jobs, and reduce the amount of original reporting in our communities.

We should treat with alarm the recent statements by Speaker of the House Nancy Pelosi, whose hometown *San Francisco Chronicle* is in trouble. She asked attorney general Eric Holder to consider loosening antitrust laws to help out struggling newspapers by allowing more media mergers.¹² Holder responded that he is open to revisiting the rules.¹³ This is exactly the opposite of what we should be doing. Not only does it reward bad business decisions—namely, leveraging news organizations with crippling debts to finance the last round of consolidation—but it also brings no new jobs, no new voices, and effectively props up a failed model. In other words, we should not subject journalism's fate to the corporate consolidators who got us into this mess. It is not unlike rewarding the banks who drove our economy into the ground. Instead, we should seize this rare opportunity to liberate journalists and journalism from the downward spiral they've been stuck in for years.

Right Answers: Toward a National Journalism Strategy.

Although this crisis calls for immediate action, there are at least three hurdles that we must clear in our push to address the crisis in journalism. There are no easy answers to any of these problems. The right approach is measured and inclusive deliberation on as rapid a timeline as practical. Just as we have created national strategies to address crises in healthcare, energy independence, and education—it is time to craft a national journalism strategy to get out ahead of this problem and take advantage of the opportunities it creates. This is not a call for another layer of government bureaucracy or a blue ribbon panel. A national strategy is a comprehensive effort across government, industry, and public stakeholders to work together to meet common goals. In our efforts to address the complicated issues outlined above, we will likely find the complex amalgam of solutions that will shape a better future for the news.

First, many people hold professional journalism today in such low-regard that they welcome its demise. This “let it burn” approach both neglects the fact that journalism is indispensable for any society to be even mildly democratic, and it mistakenly takes mainstream commercial media’s present form as the inevitable product of professional journalism. Different institutional structures could presumably produce a more ideal form of journalism. Now is our opportunity to experiment with new models.

Second, many observers and experts put their faith in the Internet marketplace as a panacea that will fill the vacuum when newspapers disappear. There is some truth to this proposition. But it does not fully reckon with the financial and institutional support system that is necessary for robust journalistic production and remains absent from the economics of Internet news – at least for the foreseeable future.

¹² John Eggerton, Pelosi Asks Justice To Take Broader View Of Competitive Landscape, *Broadcasting & Cable*, March 17, 2009.

¹³ Randall Mikkelsen, U.S. law chief open to antitrust aid for newspapers, *Reuters*, March 18, 2009.

Perhaps more troubling, the prognosticators that predict the Internet as the ultimate answer rarely ever contend with the fact that nearly a quarter of American households have no Internet access whatsoever and more than a third do not have high-speed connections. Any solution to the crisis that depends solely on Internet access immediately disenfranchises a significant swathe of the American public. Either we must consciously link the future of journalism with a policy of universal access to the Internet – or we need to embrace a more balanced approach.

Finally, a major hurdle exists in the minds of policymakers and advocates alike who simply do not think of the crisis as a policy issue. Now is the time to use some imagination. Addressing the crisis will most likely entail not one easy fix but several at the federal, state, and local levels. It is also important to remember that the federal government has been deeply involved with policies, like postal subsidies, that have enabled freedom of the press since the dawn of the Republic.¹⁴

Policy solutions have been largely left out of the discussion in no small part due to understandable concerns about government regulating speech. Clearly, we should not tolerate government policies that restrict speech or favor particular speakers over others. However, there is nothing wrong with government policies that *promote* speech of all kinds. In fact, inherent to the First Amendment's guarantee of the freedom of the press is the responsibility of the government to promote the widest possible dissemination of diverse viewpoints.

If we are indeed witnessing the death of market-supported journalism, then it is time to consider what should be done to ensure the continued production of journalism as a public good. It has always been true that reporting the news was a business that offered social benefits far beyond the commercial returns that accrue to a publisher. If we want to support journalism and journalists as a public good, we need to consider subsidy models through grants, tax incentives, or public investments in education and infrastructure. And given the transition in technology and the opportunities presented by a mix of new alternatives to transform and exceed what has come before, we should be looking at how to promote a multiplicity of possible news outlets.

As we proceed in formulating a plan to save the future of journalism, Free Press has outlined a series of guiding principles. These should serve as a baseline for the broad consideration of policies and approaches that will help restore the health of this great democratic institution:

- **Protect the First Amendment.** Freedom of speech and freedom of the press are essential to a free society and a functioning democracy. Everyone should have the right to access and impart information through the media of their choice.
- **Produce Quality Coverage.** To self-govern in a democratic society, the public needs in-depth reporting on local issues as well as national and international affairs that is accurate, credible, and verifiable.
- **Provide Adversarial Perspectives.** Reporting must hold the powerful accountable by scrutinizing the actions of government and corporations. Journalism should foster genuine debate and discourse.
- **Promote Public Accountability.** Newsrooms must serve the public interest, not private or government aims, and should be treated primarily as a public service, not a commodity. Journalism must be responsive to the needs of diverse and changing communities.
- **Prioritize Innovation.** Journalists must utilize new tools and technologies to report and deliver the news. The public needs journalism that crosses traditional boundaries and is accessible to the broadest range of people across platforms.

¹⁴ See Richard Johns, *Spreading the News: The American Postal System from Franklin to Morse* (Cambridge, Mass.: Harvard University Press), 1995.

With these values in mind, and with an eye toward concrete solutions and viable political options, we should begin to survey the policy alternatives for journalism. Government may need to step in to stanch short term losses in news production and keep the reporting workforce on the job. But more importantly, we need to provide the space, guidance and resources to think about investments in long-term solutions. Just as government invests in medical research to heal the ailments of the body, we need government to invest in experimentation with news models to heal the democratic ailments of the body politic.

The bottom line of my testimony today is that we should open a sweeping inquiry for a national journalism plan. That begins with investigation and discussion – of which this hearing is a good step. But policymakers should also quickly ascend the learning curve of the discussion already happening in the academy, among foundations, and in the media—both traditional and online—about the future of the news. This conversation is sophisticated and rich.¹⁵ The ultimate answer might be to do nothing; but I doubt it. The answer is certainly not to relax antitrust standards and double-down on the bad decisions that media companies have made in the past that have accelerated this decline. The most likely answer—based on the evidence available today—is that there will be many, many answers. And that's the good news.

¹⁵ A good sampling is available here: Jay Rosen, “Rosen’s Flying Seminar in the Future of News,” http://journalism.nyu.edu/pubzone/weblogs/pressthink/2009/03/26/flying_seminar.html