

It's time to move legal notices online

Posted on May 14, 2012 by Howard Owens

There are important reform bills in California and New York, and perhaps elsewhere, that would allow online-only publication of legal notices.

Newspaper publishers are predictably fighting the bills, one of the last reliable revenue streams for print newspapers.

But what they're really arguing for is a right to maintain a monopoly on what has essentially become a government subsidy of their operations.

It's a position that is hostile to taxpayers and consumers by blocking free market competition and potentially saving governments money.

Below is an FAQ I've prepared as a handout for local government officials in my coverage area and I would encourage my fellow New York online publishers to use it or something like it too build local agency support for the New York bills that are currently hung up in the Government Organizational Committee. To get these bills moving forward, it will take the support of local government officials, who are always looking for relief from unfunded mandates.

Information supporting Assembly Bill 6058 by Assemblyman Steve Hawley and Assembly Bill 8075 by Assemblyman Kevin Cahill.

Q. How will this change the current law.?

A. Currently, government agencies can only place legal notices in printed newspapers to satisfy various public notice requirements. These bills would allow agencies to place notices in qualified local online news publications.

Q. Would agencies be required to post notices online?

A. No. The agency could choose whether to publish its notices with a qualified newspaper or a qualified online news source, or both, or with a local news organization that provides both print and online publication.

Q. What is the purpose of these bills?

A. These bills will end what is essentially unfunded mandate. Currently, print newspapers have a monopoly legal notice publications. In the vast majority of jurisdictions in New York agencies have only one or two qualified publications available for legal notices. This bill would allow for competition in the market place leading to lower prices and cost savings for taxpayers.

Q. What do these bills change?

A. There are dozens and dozens of laws on the books that govern the publication legal notices. Generally, the definition of what constitutes a newspaper is taken from the language of the general construction law. These bills add to the definition of what constitutes statutory publication to include general online news publications that cover a defined geographic region and have been in continuous operation for at least one year and publish news on a daily basis.

Q. Won't this bill hurt the profitability newspapers?

A. That's up to newspapers. It's up to publishers to manage their businesses better in a more competitive environment rather than rely on what has become a government subsidy of their operations. For many newspapers, these bills will actually add to the profitability of the newspapers because those newspapers will be able to retain much of the current legal publication business at current rates but save money on ink and paper by publishing the notices online only.

Q. How will citizens benefit from online legal notices?

A. Online publication opens up a wealth of opportunities for legal notice enhancements, from maps, links to related data, searching, greater and wider distribution (think Google), and continuous archives.

Q. But not everybody has access to a computer or the Internet. Won't this deny those people an opportunity to view legal notices?

A. The flip answer is, not everybody reads a newspaper. The truth is, neither paper nor online have a monopoly on readership. Just as anybody can borrow a neighbor's paper or go to the library to read a paper, every body has a friend or relative with online access and the library offers free online access. For people with a real interest in online notice publication, such publication is equally accessible both online and in print. The online advantage, if any in this regard, is that the notice is still easily available days later if you happen to throw out your newspaper before seeing an important notice.

Q. Government agencies all have their own online sites now. Why should agencies pay a third-party for publication?

A. Third-party publication is essential to maintaining accountability and transparency. The third-party publisher is responsible for ensuring the notice, once published, is not altered in anyway and provides a barrier to those who might tamper with a legal notice.

Q. Won't hackers be able to alter or damage a legal notice published online?

A. First, professional news organizations provide a high degree of security for their sites. It's a vital and essential part of their businesses. This makes any computer break-in necessarily sophisticated. The people with motivation to alter public notices are not usually the people with

the tools and knowledge necessary to hack into a web site; and typically public notices are not the kinds of online information that hackers target.

Q. I've heard of some government agencies running into difficulty with the local papers that have reduced publication cycle making it hard to get notices published in a timely manner.

A. It's true. In New York, some government agencies have found that as formerly daily newspapers drop publication days, they have to plan ahead to get notices published within the legally proscribed time line. This bill will allow those newspapers to move their legal notices entirely online and better meet the needs of the government agencies within their coverage areas. These bills also prepare for the inevitable day when newspapers no longer publish a printed product on any day of the week.

To support these bills send a letter to Assemblyman Steve Englebright, chairman of the Governmental Operations Committee, LOB 621, Albany, NY 12248.

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