

FEDERAL TRADE COMMISSION

Public Workshops and Roundtables: From Town Crier to Bloggers: How Will Journalism Survive the Internet Age?

AGENCY: Federal Trade Commission

ACTION: Notice Announcing Public Workshops and Opportunity for Comment

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) announces that it will hold two days of public workshops on December 1 and 2, 2009, to examine the Internet’s impact on journalism in newspapers, magazines, broadcast television and radio, and cable television. The Internet has changed how many consumers receive news and altered the advertising landscape. Low entry barriers on the Internet have allowed new voices of journalism to emerge; the Internet-enabled links from one web site to another have given consumers easy access to all types of news; efficiencies available through the Internet have substantially reduced advertising costs. These and other changes related to the Internet have benefitted consumers greatly.

At the same time, however, lower online advertising costs have reduced advertising revenues to news organizations that rely on those revenues for the majority of their funding. The explosion in the number and types of web sites has increased the supply of advertising locations. As that supply has increased, advertisers now pay less for online advertising, and some advertising has moved from print, television, or radio to online sites. In addition, most online news is offered free, so online readers of news frequently do not contribute subscription revenues to news media.

These developments are challenging the ability of news organizations to fund journalism. The workshops will consider a wide range of issues, including: (1) the economics of journalism on the Internet and in more traditional media; (2) how the business models of different types of news organizations may evolve in response to the challenges associated with the Internet; (3) innovative forms of journalism that have emerged on the Internet; (4) how competition may evolve in markets for journalism and advertising; and (5) changes in governmental policies that have been proposed as ways to support journalism.

The Commission seeks the views of the news media and the legal, academic, consumer, and business communities on the issues to be explored at the hearings. This notice poses a series of questions on which the Commission seeks comment.

DATES: The dates for the workshops are December 1 and 2, 2009. Comments must be received by November 6, 2009, to be considered in preparing for the workshops.

ADDRESSES: The workshops will be held at the FTC’s Conference Center located at 601 New Jersey Ave., N.W., Washington, D.C. 20001. Those who plan to attend are encouraged to pre-register by sending an email to newsmediaworkshop@ftc.gov. This information will be used for planning purposes only. Interested parties are invited to submit written comments electronically or in paper form, by following the instructions in the Instructions For Filing Comments part of the SUPPLEMENTARY INFORMATION section below. Comments filed in electronic form should be submitted by using the following weblink: <http://public.commentworks.com/ftc/newsmediaworkshop> and following the instructions on the web-based form. Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex F), 600 Pennsylvania Avenue, NW, Washington, DC 20580, in the manner detailed in the SUPPLEMENTARY INFORMATION section below.

FOR FURTHER INFORMATION CONTACT: Jessica Hoke, Office of Policy Planning, FTC, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580; telephone (202) 326-3291; e-mail: newsmediaworkshop@ftc.gov. Detailed agendas for the workshops will be made available at the workshop webpage, which will be accessible from the FTC Home Page (<http://www.ftc.gov>).

SUPPLEMENTARY INFORMATION: The Internet has given consumers access to an unprecedented number of information sources. The Internet’s low entry barriers, in comparison to traditional media, have created new publication opportunities resulting in multiple innovative forms of journalism. Websites run by citizen journalists and bloggers, for instance, provide information, analysis, and opinion on a wide variety of topics. In addition, websites have been created that aggregate stories from many different publications, so a particular news story may be seen at multiple locations on the Internet. These changes have benefitted consumers in a wide variety of ways.

At the same time, changes associated with Internet technology pose fundamental financial challenges to many news organizations. To a large extent, these challenges reflect changes in the business of advertising. News organizations traditionally have provided valuable venues through which advertisers can reach consumers, and advertising revenues – not consumer purchases – have funded most of the costs of producing and distributing the news. Now this business model is under stress. Online websites provide an almost limitless supply of advertising venues – a fact that has reduced advertising revenues to many traditional forms of news media. Particularly in the case of classified advertising, much lower costs combined with a much larger network of potential purchasers and sellers have encouraged advertisers to move online to a significant extent, eliminating a substantial portion of the advertising revenues that newspapers rely on.

Other developments raise additional issues. Consumers are using “news aggregator” websites, which collect and link to stories produced by news organizations. Aggregators generally do not pay for that content, claiming that they help news organizations by enabling readers to link back to the original news story, thereby driving

traffic to the news organization's website and the advertising located there. News organizations respond that some aggregators not only link to the original news story, but also post a substantial portion of the original news story at the aggregators' sites. This diminishes the value of advertising at the original news story's website, they claim, by decreasing the likelihood that a reader will visit the complete story at the news organization's website. There are currently various proposals to address this issue, including possible amendments to copyright laws.

These financial challenges have prompted cost-cutting measures at many news organizations. Additionally, a recession, bursting real estate bubble, and automobile industry crisis also have reduced advertising sales and revenues. In this economic context, the debt burdens from heavily leveraged purchases of news organizations, combined with other factors, have forced several large daily newspapers to declare bankruptcy and others to impose significant cuts in staff and other expenditures to lower costs.

The reduction in news staffs raises questions over whether certain types of news are receiving less coverage as a result. Many have expressed concern that investigative journalism will suffer.¹ Some economists believe that public affairs reporting may indeed be particularly subject to market failure.² Non-profit organizations, some associated with universities or supported by foundations, have developed to provide investigative journalism,³ and proposals exist to amend tax rules to make it easier for foundations to support such news organizations.

There are also concerns about the extent to which local journalism will continue to thrive. New websites run by citizen journalists, which generate local and hyperlocal news (covering neighborhoods of just a few blocks), provide alternative sources of local news. For the most part, however, these new journalism models have not yet proven profitable. Various tax proposals seek to make it easier for foundations and other low-profit ventures to support local journalism.

¹ E.g., Will Skowronski, *Investigative Teem: New nonprofit centers aim to fill the gap in state and local investigations*, AM. JOURNALISM REV. (Feb./Mar. 2009) (describing new nonprofit centers dedicated to investigative journalism as a result of concern that news organizations have declining revenues for investigative reporting), available at <http://www.ajr.org/Article.asp?id=4693>.

² Matthew Gentzkow & Jesse Shapiro, *Competition and Truth in the Market for News*, 22 J. ECON. PERSPECTIVES 133, 146 (2008) ("As Downs (1957), Coase (1974), Posner (1986), and others have pointed out, when it comes to the kind of information that the First Amendment is most concerned with, there may be large social gains that consumers do not internalize. Consumers will prefer to free-ride and let others invest in casting informed votes." (citations omitted)). See also JAMES T. HAMILTON, ALL THE NEWS THAT'S FIT TO SELL: HOW THE MARKET TRANSFORMS INFORMATION INTO NEWS (Princeton Univ. Press 2004) at 13 ("The point here is that since individuals do not calculate the full benefit to society of their learning about politics, they will express less than optimal levels of interest in public affairs coverage and generate less than desirable demands for news about government.").

³ See n. 1 *supra*.

The FTC's workshops will bring competition, consumer welfare, and First Amendment perspectives to analyze (1) the financial challenges facing news organizations in the Internet age, and (2) the potential for new opportunities for sustainable journalism. Workshop participants will discuss, among other things:

- Internet-related changes in advertising that affect news organizations, and ideas for potential responses to those changes;
- Internet-related changes in ways that consumers obtain news, and ideas for potential responses to those changes;
- Ideas for reducing the costs of providing the news and restructuring news organizations to become more efficient (without sacrificing quality);
- Potential profit and non-profit models for journalism, including innovative forms of journalism; and
- Potential evolution in competition among news organizations.

The FTC workshops will also explore whether recent changes in the news industry require consideration of additional or alternative governmental policies to ensure that journalism provides news of value to consumers.⁴ Workshop participants will discuss, among other things:

- Proposals for new tax treatment for news organizations;
- Proposals for changes in copyright law and doctrine, including the "fair use" of news stories;
- Proposals for an antitrust exemption applied to certain conduct of news organizations; and
- Proposals for greater public funding of public affairs news.

Other relevant topics for the workshops may be proposed as well. An agenda for the December 1 and 2, 2009, workshops will be circulated at a later time. Participants will include journalists, editors, owners, and other representatives of news organizations, online advertisers, new media representatives (such as bloggers and local news web sites), consumer advocates, academics, economists, and government representatives.

The Commission seeks public comment on the questions posed below or any issue raised by this notice. Comments may address the issues raised in these questions or other issues relevant to the topics to be addressed at the workshops. Any interested person may submit written comments. In preparing for the workshop, the Commission will consider comments received by November 6, 2009. Later comments will be accepted as well.

⁴ Governmental policies supporting news organizations are not new. In the nineteenth century, newspapers were often distributed through the mail with no charge for postage. Radio and television benefitted from the government's licensing of spectrum without competitive bidding. The Newspaper Preservation Act of 1970 provided ways for newspapers to collaborate on operations costs, exempt from the antitrust laws, while continuing to compete on content. Copyright laws protect original news content, with exceptions for "fair use."

Changes Driven by Technology

- How is the Internet changing the way consumers access news? What further changes are forecast? What are the consequences of those changes for consumers and for news organizations?
- How is the Internet changing advertising expenditures? What further changes are forecast? For which types of advertising will news organizations likely remain preferred venues? What is the likely role of targeted advertising in the future, both by news organizations and other entities?
- How is the Internet changing the way news organizations and others research, write, edit, produce, and distribute news? How could the Internet be useful in reducing those costs? What would be the likely consequences of any changes?
- What innovative forms of journalism have emerged due to the Internet? What types of journalism are produced?
- What are the business models, including the revenue sources, for new models of journalism on the Internet? Are they profitable? What are the prospects for future profitability?
- What new forms of journalism and new business models may become more prevalent in the future? How might new or improved technologies drive the evolution of the news media in the future?

Economic Challenges of News Organizations

- What economic challenges do news organizations face today? What is the source of these challenges?
- What alternative cost-cutting measures have news organizations considered? Which have they adopted? What further measures are under consideration?
- How have cost-cutting measures affected the provision of news to consumers? What types of news are no longer being covered? What types of news receive less coverage than before? What are the long-term consequences of such reduced news coverage for consumers? What are the long-term consequences of such reduced news coverage for ensuring an educated citizenry?
- How might the business models of news organizations evolve in response to these challenges? What would be the effect of new business models on the type, quality, and quantity of journalism available both off and online?

- How are news organizations likely to compete for readers and advertising in the future? What is the value that particular news organizations can offer to persuade advertisers to choose them over different venues for advertising? What is the value that particular news organizations can offer that might persuade consumers to pay for their content? How will those values differ depending on characteristics of the news organizations (e.g., local, regional, or national news; specialized or broad coverage; weekly or monthly news)?

Government Policies

- Are new or changed government policies needed to support optimal amounts and types of journalism, including public affairs coverage? Why or why not? Could new or changed government policies encourage more competition among news organizations?
- Should the tax code be modified to provide special status or tax breaks to all or certain types of news organizations? Why or why not? If yes, in what ways? What would be the likely effects for consumers? For news organizations? What strategic behavior or unintended consequences might special tax treatment engender?
- Do the protections for original news content under current copyright law provide sufficient incentives to create that content? If not, should copyright law be altered? What is the role of the “fair use” doctrine in allowing use of original news content by news aggregators and others? Should the “fair use” doctrine be modified? What would be the effects of any changes in copyright law or doctrine on consumers and news organizations? What strategic behavior or unintended consequences might changes in copyright law or doctrine engender?
- What joint actions, if any, are news organizations considering to address the financial challenges they face as a result of changes brought about by the Internet? Are there any joint actions for which an antitrust immunity arguably would be required? If so, have joint actions been tried first that do not require antitrust immunity? Under what circumstances, if any, could an antitrust immunity for certain joint conduct be justified? In what ways, if any, would antitrust immunity be preferable to innovation to address new challenges?
- Should the federal government provide additional funding for news organizations? Why or why not? If yes, should only current recipients of federal funding receive increased funding? What methods have other countries used to provide government funding for the news, while retaining journalistic integrity? What would be the costs and potential consequences of increased federal funding for the news? What strategic behavior or unintended consequences might increased federal funding engender?

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “News Media Workshop Comment, Project No. P091200” to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at <http://www.ftc.gov/os/publiccomments.shtm>.

Because comments will be made public, they should not include any sensitive personal information, such as any individual’s Social Security Number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . ,” as provided in Section 6(f) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).⁵

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: <https://public.commentworks.com/ftc/newsmediaworkshop> (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink <https://public.commentworks.com/ftc/newsmediaworkshop>. If this document appears at <http://www.regulations.gov/search/Regs/home.html#home>, you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Website at <http://www.ftc.gov> to read the document and the news release describing it.

A comment filed in paper form should include the “News Media Workshop Comment, Project No. P091200” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex F), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

⁵ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Website. More information, including routine uses permitted by the Privacy Act may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

By direction of the Commission.

Donald S. Clark
Secretary