



Time to End Newspaper Publication Requirement for Towns

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Few things in life are more certain and more maddening than the private sector profiting off the public sector through preferential treatment and poor value. We've seen it in myriad ways; from preferential tax treatment to outright subsidies, corporate welfare knows no end.

The Cato Institute, the libertarian think tank, defines corporate welfare as “spending, typically in grants, loans, and loan guarantees; limits on competitors, such as tariffs and quotas; tax preferences, attached to broader tax bills to benefit individual companies and industries.” In other words, corporate welfare gives the well-connected (known as “rent seekers”) protection from many of the normal risks of business. You could also call it “crony capitalism.”

Special tax deals to lure corporations to Connecticut have been reported on these pages in recent years. For an example, look no farther than former Gov. Dannel Malloy's “First Five initiative,” which provided lucrative incentives to corporations that promise to create jobs in the state. And the “limits-on-competitors” protection cited by Cato is especially alive and well in Connecticut, where some businesses are, to use George Orwell's words, “more equal than others.”

Until now, my favorite target was the state's package store owners, who enjoyed freedom from competition from one another through the magic of minimum pricing and ownership rules designed to limit competition, resulting in the most oppressive and anti-competitive laws governing the sale and distribution of alcohol in the country.

On a smaller scale, newspapers – an industry near and dear to my heart – enjoy protections of their own and should not be exempt from scrutiny even if they buttered my bread for 20 years. As just about everyone knows, all but the largest of newspapers are

struggling to pay their bills in the face of the wholesale loss of classified advertising to Craig's List and the like, along with the steady migration of other ads to digital titans such as Google and Facebook.

After falling on hard times, newspapers began looking for new ways to monetize and began charging for obituaries. But Connecticut newspapers have always enjoyed one steady source of guaranteed revenue: municipal legal notices must by law be published in print newspapers.

That's right. The state in its infinite wisdom gave print newspapers a monopoly on publishing items such as notices for public hearings and announcements of coming budget votes, thus giving the papers a guaranteed revenue stream and protection from meaningful competition from other publications. Worse yet, it forbade towns from saving money by self-publishing the notices on their own websites instead.

Newspapers, of course, loved the arrangement. At one weekly paper I worked at in Massachusetts, which has a similar publication requirement, the publisher used to laugh when I asked him about the mandate. His only competition for legal advertising dollars was a daily newspaper to the north whose rates were far higher, so he could easily undersell. That weekly is now closed, so small towns in the area are forced to pay a much higher rate to the surviving daily because it's the only print newspaper in general circulation. What a racket.

The truth is that, like most monopolies (or quasi-monopolies), newspapers abused the system and soaked the towns and cities they served. Most newspapers, if they are still staffed even at minimal levels, contribute valuable journalism and keep the public informed. But the number of newspaper companies that contribute to the local economy is shrinking. Since 2005, roughly 2,200 local print newspapers in the U.S. have shuttered – more than one in five.

Almost all surviving newspapers have cut staff dramatically over the last two decades, most now outsource their printing to remote locations (thus reducing their local personal property tax burden) and many, such as the *Hartford Courant*, have closed their offices entirely and told their employees to work from home. Consequently, many newspaper companies aren't even paying local property taxes that support the municipal governments that are forced to advertise in newspapers. On what planet does this make sense?

Now the chickens are coming home to roost. As part of its annual priorities list, the Connecticut Conference of Municipalities is once again making a renewed effort to remove the outdated law, which it calls “a costly mandate on towns and cities.” CCM pointed out that during the COVID-19 pandemic, Gov. Ned Lamont issued an executive order allowing municipalities to satisfy the legal requirement by publishing meeting notices on their own websites and that the arrangement worked out fine.

“While in effect, residents searched the town website for information on upcoming meetings and public hearings, which resulted in better-attended meetings and greater public awareness and participation,” CCM said, adding that the current law is an “unfunded mandate.” Well, duh.

In written testimony, Betsy Gara, executive director of the Connecticut Council of Small Towns, argued that the shift to online publication did not cause any “issues or concerns” in local communities. It remains to be seen whether the bill will pass. It has been referred to the Office of Legislative Research and the Office of Fiscal Analysis.

The cost of the legal advertising is not as great as CCM suggests (an estimated \$5 million annually for the state’s 169 municipalities) but that’s still \$5 million that does not need to be spent. Hamden Mayor Lauren Garrett told a legislative panel her town spent roughly \$100,000 per year on publishing legal notices in newspapers. And that doesn’t count the extra labor involved for municipal staff to format the information for the newspaper and send it to the appropriate person at the company.

Right on cue, the Connecticut Daily Newspaper Association objected to the CCM proposal, framing the issue in terms of transparency and accountability. The association argued that town websites can be hacked and that people without computer access would be left in the dark. Of course, this vanishing breed can go to their public library, where a professional librarian would be happy to help them locate what they’re looking for.

The very conservative editorial board of Waterbury’s Republican American newspaper, which has for decades railed against unfunded mandates and government meddling in the affairs of the private sector, made a transparently self-serving exception to its own philosophy.

An editorial last month blasted CCM, which the paper nicknamed the “Conference of Crying Mayors,” for “trying to destroy conventional journalism in the state” in an effort to “push some of them over the edge by denying them revenue from publication of legal notices.”

Ordinarily, the paper blasts governments at all levels for excessive spending. But when officials want to save money at the expense of newspapers like the Rep-Am, the editorial board accuses them of trying to put newspapers out of business because “people who live in news deserts won’t find out about corruption and incompetence in town, city and public-school government.”

My mentor, the late Bob Estabrook, the former editorial page editor and chief diplomatic correspondent of the Washington Post, told me a long time ago that it’s fine to question the motives of public officials, but speaking directly to their motives is fraught with peril. These are words to live by for an editorial writer.

According to the Associated Press, there were also several bills introduced in the 2019 state legislative session that would have eliminated the requirement that local governments post their public notices in newspapers and allowed them to use their websites instead. None of them passed. Elsewhere, bills have been introduced in at least 15 states allowing or requiring official notice to be published on various platforms other than local newspapers, according to the Public Notice Resource Center.

And it’s also worth asking why municipalities are burdened with this unfunded mandate when the state’s court system is not. In a move that did not require legislative approval, Connecticut’s Judicial Branch made the decision in 2019 to move legal notices to its own website. So did Alaska, whose court system said they moved notices to the court systems website because they found newspaper publication “ineffective, expensive and outdated because of society’s reliance on the internet and social media.”

Therein lies the problem. Like package stores, newspapers have strong allies in state legislatures. As the third branch of government, the judiciary doesn’t have to worry about such inconveniences, so officials there simply changed the rules.

If a compromise must be reached to wean newspapers off of dependence on wasteful and unnecessary government spending, the General Assembly could retain a requirement that towns publish a brief summary of legal notices in newspapers, followed by directions to find the remaining information on municipal websites. Compromise is not a dirty word, especially when it comes to warding off rent seekers.