FIU Law Review

Volume 2 | Number 1 Article 7

Winter 2007

Taking Stock of Newspapers and Their Future

Randall P. Bezanson
University of Iowa

Gilbert Cranberg
University of Iowa

Online ISSN: 2643-7759

Taking Stock of Newspapers and Their Future

Randall P. Bezanson[1]
Gilbert Cranberg[2]

I. Introduction

In this essay, we will touch upon many subjects that are contributing to the changing face of daily newspapers in the United States. We begin with a brief and conclusory definition of editorial freedom in news, the foundation of journalism, and the key to its educational function in the news setting. We will then turn to markets, technology, economics, organization of the news firm, operation of the newsroom, and the changing definition of news. Our purpose is to identify deep changes that are occurring in the nature and institutions of news, changes that will continue to evolve in unforeseeable but perhaps controllable ways as the Twenty-first Century unfolds.

* * *

Editorial freedom is at the very heart of news as we know it. Editorial freedom has only partly to do with government. But it has *everything* to do with journalism. It is not a negation of government's authority to intermeddle, but an affirmation of what freedom journalism, at least when it comes to news, must enjoy.

Journalism is a human creation. It is not a part of the natural order of things, but instead stems from the economic necessities of the news business and the news industry. Journalism rests on a central idea: that judgments about what is important and what people need to know must be made in the middle distance between the whim of an owner and the will of an audience. Journalism's idea is independence from the owner *and the audience*, not just (or even primarily) independence from the government. This independence makes possible the making of judgments about what is important and why, about what people need to know, not just what they might wish to know.

---

1 David H. Vernon Professor of Law, University of Iowa.
2 Gallup Professor of Journalism, Emeritus, University of Iowa.

II. CHANGING MARKETS FOR DAILY NEWS

Let us turn, first, to the market.

Over many years we have studied the newspaper industry and the influence, if any, of changing economic, technological, and structural ownership forces on news.[3] Our interest is in what the market looks like, how it works . . . and ultimately what effect, if any, the market is having on news judgment. Here are some of the things we have discovered while rummaging around in the news business and the newspaper industry.

Newspapers are losing circulation. And they are fat and happy, by and large (at least if they are smart). Years ago the *Des Moines Register* held a retreat—back in 1979 or so, when it was a real and good newspaper. One of the big subjects discussed was whether to wrap the classified ads and sports sections in the Editorial section of the Sunday paper. This was all about bundling—creating a department store of news in the newspaper. People would have to see and touch the editorial stuff, at least. The *Register* took seriously its obligation to make people see what they *needed*. It was a big, brazen, independent, statewide newspaper, in the finest of traditions—a great department store.

Today the *Register*'s retreats are likely dominated by discussions about strategic circulation reductions, about increasing the ratio of advertising to newshole, about sponsoring public meetings, not covering them. The *Register* has purposefully shed its rural circulation. The State market, it has concluded, is too diverse. Advertisers won't pay for rural circulation; it's not part of the desired demographic. The *Register*'s advertising today is in the Des Moines metropolitan area; its circulation is cut back to that area; its news content is refocused on Des Moines.

This is a result of a shift in the economies of the newspaper business, from high fixed costs to low fixed costs, from low variable costs to high variable (labor) costs. And it is a result of the profit potential that lies in small markets where costs can be cut, circulation decreased, *and* revenues increased, all at once.[4]

---

3 *See*, *e.g.*, GILBERT CRANBERG, RANDALL BEZANSON & JOHN SOLOSKI, TAKING STOCK: JOURNALISM AND THE PUBLICLY TRADED NEWSPAPER COMPANY (2001) [hereinafter TAKING STOCK]; RANDALL P. BEZANSON, HOW FREE CAN THE PRESS BE? (2003); Randall P. Bezanson & Gilbert Cranberg, *Institutional Reckless Disregard for Truth in Public Defamation Actions Against the Press*, 90 IOWA L. REV. 887 (2005) [hereinafter *Institutional Reckless Disregard for Truth*]; Randall P. Bezanson, *The Structural Attributes of Press Freedom: Private Ownership, Public Orientation, and Editorial Independence*, *in* JOURNALISM AND THE DEBATE OVER PRIVACY 17-57 (Craig L. LaMay ed., 2003); Randall P. Bezanson, *The Atomization of the Newspaper: Technology, Economics and the Coming Transformation of Editorial Judgments About News*, 3 COMM. L. & POL'Y 175 (1998) [hereinafter *Atomization of the Newspaper*]; RANDALL P. BEZANSON, GILBERT CRANBERG & JOHN SOLOSKI, LIBEL LAW AND THE PRESS: MYTH AND REALITY (1987).

4 *See Atomization of the Newspaper*, *supra* note 3, at 212-21.

Minority circulation is being shed.[5] Some call it newspaper redlining. A very big metropolitan daily in the Midwest is reported to be purposefully shedding minority circulation (south side of town). The paper can make more money without the minority subscription base. Like the *Des Moines Register*, it can save printing, circulation costs, increase ad rates and numbers, and increase subscription price and revenues. It can decrease costs, because the minority community doesn't need coverage if it is not being served; and, the economies of scale—fixed costs low, variable (labor) costs high—disfavor *large size* serving of a *diverse* news market; instead, it is better to be small and concentrate content to a homogeneous demographic—and hopefully an upscale one.

Joel Kramer, then the Minneapolis *Star Tribune* publisher, said (after the paper posted a four percent circulation loss following a thirty-two percent price hike): "We are a healthier business . . . if we are charging readers more and accepting a somewhat smaller circulation."[6] *Especially* if the small reader demographic is upscale.

The chief economist for the Newspaper Association of America said, not too long ago, "We're in the business of delivering eyeballs to advertisers." Much of the decline in newspaper penetration, the NAA has said, is "self-induced by solid business decisions."[7] The NAA's 1995 Report to its members gives the following advice: "Eliminate 'fringe circulation'" that provides little value to advertisers (read: minority, poor); focus on quality of circulation, not on quantity (read: upscale): the quality customer pays on time, preferably in advance, and is a steady subscriber; and aggressively price. "Low-income areas," the NAA chief economist said, "are not where you concentrate efforts."[8]

III. CHANGING TECHNOLOGIES OF NEWS

Technology is conspiring with economic forces to narrow the range of discretion enjoyed by editors and reporters, and in its stead to place increasing editorial judgment in the hands of readers, and soon perhaps in the hands of computer intelligence that will exercise readers' editorial judgment for them without their knowing it, and without their knowing what they are missing. Technology and economics are thus conspiring to wrest editorial control over news content and news selection from journalism.

Here's an example of the potential technology offers: Netflix.com. If you haven't been there, we encourage you to go. There you will be asked

---

5 Gilbert Cranberg, *Trimming the Fringe: How Newspapers Shun Low-Income Readers*, COLUM. JOURNALISM REV., Mar.-Apr. 1997, at 52.

6 *Id.*

7 *Id.* (discussing NEWSPAPER ASSOCIATION OF AMERICA, 1995 CIRCULATION FACTS, FIGURES AND LOGIC).

8 *Id.*

to rate a few movies you have seen. Based on your rating, Netflix.com will tell you which movies you are likely to like, and which you won't like. As you see movies, and rate them, Netflix gets smarter: better at knowing your likes and dislikes, better at making recommendations for you (which are, really, from you), better at telling you what not to see by never telling you about it. It's kind of an epistemological miracle, an out of mind experience.

A similar program, more powerful, has been tested in the newspaper market in research studies at MIT.[9] The MIT work involves not only individual preferences for news content, balance, and coverage, but also develops demographic screens that select in and out news material based on racial, gender, age, educational, economic, regional, and other characteristics. Of course Moviecritic only gets smarter because the individual user rates more and more movies. But with newspapers over the internet, rating by the customer is not needed. The computer will just record your actual preferences reflected in your clicks, your printing instructions, and your searching habits and internalize that experience into an even better approximation of your mind, values, preferences, and prejudices. And something called push technology lets the computer software do that without you ever having to ask it to do so, or even wanting it to do so.[10]

Where is the exercise of human judgment about what you *need* to know? Where is the editor—that hard-bitten, cranky, cigar-chewing, heavy drinking curmudgeon who you hire when you buy a newspaper? It is, after all, the editor you buy, not the paper and print. What you get from this technology would certainly not be a department store of news. Indeed, it wouldn't even be a boutique. It would be a sliver. Imagine, if you are a good consumer, the competition to get content into your sliver, to get it to pass through your tight screen, your epistemological template.

IV. CHANGING ECONOMICS OF NEWS

What's going on here? What's going on may be a revolution. A revolution being driven by *a* market (not, as some economists would have it, by an idealized market), by fundamental technological and economic forces that are changing the communication industry, and the business of news and journalism, before our eyes. Much as these pieces of bad news seem disconnected and even cynical, they are not; they are part of a coherent whole, a rational pattern. Here is what we see as the chief elements of the pattern:

---

9 *See* Mitchel Resnick, *Distributed Constructionism*, *in* INTERNATIONAL CONFERENCE ON THE LEARNING SCIENCES 280-84 (Daniel C. Edelson & Eric A. Domeshek eds., 1996), discussed more generally in *Atomization of the Newspaper*, *supra* note 3, at 188-94 (discussing atomizing editorial judgments, Moviecritic, and the MIT research).

10 *See Atomization of the Newspaper*, *supra* note 3, at 188-94; J.D. Lasica, *When Push Comes to News*, AM. JOURNALISM REV., May 1997, at 32.

– The mass market is dying. The economies of scale are reversing themselves. Economies of scale in 1947 favored large size and mass markets; today they favor small scale and segmented markets.

– Large is not profitable. Small is.

– The market fragment—the niche, or target, in current parlance—is the chief aim for economically motivated firms. In the fragment, costs can be cut, volume reduced, content specialized, shaped by the preferences and tastes of the demographic segment, and revenues and profits increased.

– Fragmentation has created the deeply ironic condition in which variety and diversity of expression is unprecedented when viewed across the landscape of media, but in which, for any individual member of the audience, variety and diversity have been diminished. As consumers of news we have more options (just look at the fifty to one hundred cable channels) but we *exercise* few of them. In an age of plenty we starve.

– Barriers to entry are down. Fixed costs are down, variable costs up. The key is strategy, not bulk.

– Control of media *content*—including news—has changed from top-down to bottom up. Concentrated ownership of newspapers in the hands of chains has yielded standardized economic behavior and incentives at the daily papers, but *not* standardized control of news content. Content is being shaped from the bottom up—from the subscriber and the niche advertiser assisted by the contact groups, market surveys, and devices of community journalism now practiced, <u>not</u> by the centralized holding company management—they are not news people—but by the local newspaper, pursuant to central corporate policy.

– New electronic news markets and firms are emerging. The current manifestation of the new forces of economic scale—bottom up content choice, fragmentation of news markets, and the economies of smallness—is the blog. Five years ago the term blog was the province of a few internet geeks. Today the number of blogs is in the millions. Blogs are specialized spaces—politics, law, medicine, literature, cooking, and on and on—of information and opinion, and in the political blogosphere, mostly opinion. They check the traditional news sources, especially national newspapers and networks, now known as MSM (mainstream media). They challenge facts, uncover facts and motives, offer different and competing opinions. Many—perhaps even most in some segments—are ideologically or politically committed. Technology allows us, with blog sites, to indulge in reinforcing our own beliefs, if we wish, or to have them challenged. More often the former, perhaps.

V. THE CHANGING STRUCTURE OF THE NEWS FIRM

Consumers of journalism have been beleaguered in recent years by two trends. When the trends intersect and overlap, as they do frequently, they are especially toxic to the public's interest in accurate and comprehensive news and information.

A. Concentration and the Financial Markets

One of those trends, consolidation, has rapidly remade the face of the communications industry. By one count, in 1983, most of the major media outlets were concentrated in fifty corporations.[11] Just nine years later, that degree of control was in the hands of nine companies. By 2004, the urge to merge had concentrated ownership in a mere five corporations.[12]

Consolidation in broadcasting has given rise to Clear Channel Communications, the nation's biggest broadcaster and a publicly traded powerhouse with ownership of just over 1200 radio stations.[13] A Clear Channel executive described the company's mission: "We're not in the business of providing news and information. We're not in the business of providing well-researched music. We're simply in the business of selling our customers products."[14] Consolidation also gave birth to Sinclair Communications, again publicly traded, which is among the largest U.S. owners of television stations. Sinclair boasts a profit margin of forty per cent. Its CEO reported to stockholders not long ago, "We continued to control and reduce costs by eliminating non-core expenses and closing unprofitable news programs in St. Louis and Greensboro, N.C."[15] Costs at the Sinclair-owned TV outlet in Des Moines, Iowa, are controlled by maintaining a skeleton local news crew and originating the nightly newscast 150 miles distant in Cedar Rapids; the same news program is aired to unsuspecting viewers in both cities. Sinclair's public file in Des Moines informs citizens curious about how the station serves the public that it helps the community cope with drugs and crime by broadcasting movies such as "Tequila Sunrise" and "Silence of the Lambs."[16]

Takeovers usually involve acquisition costs, which frequently are financed in part by anticipated revenue gains, cost cuts, or both. When analysts commented on the recent impending sale of the Knight Ridder chain, the nation's second largest newspaper company, they said they expected the sale to be accompanied by an attack on costs. Since the big-ticket items at

---

11 BEN H. BAGDIKIAN, THE MEDIA MONOPOLY, at xxviii (4th ed. 1992).

12 BEN H. BAGDIKIAN, THE NEW MEDIA MONOPOLY 3 (2004).

13 THE PROJECT FOR EXCELLENCE IN JOURNALISM, THE STATE OF THE NEWS MEDIA 2004 28 (2004), http://www.stateofthemedia.org/2004/index.asp (last visited Aug. 10, 2006).

14 Christine Y. Chen, *The Bad Boys of Radio,* FORTUNE, Mar. 3, 2003, at 119 (quoting Clear Channel CEO Lowry Mays).

15 SINCLAIR BROADCAST GROUP, 2001 Annual Report (2002) ("Letter to out Shareholders, unnumbered page before page 1), *available at* http://www.sbgi.net/annual_reports/sbgi2001.pdf (last visited Oct. 23, 2006).

16 Memorandum from Kelley Green to Channel 17 Public File (Apr. 9, 2002) (on file with author).

newspapers are personnel and newsprint, shrinking staff and newshole inevitably would impact quality of the publications. The sale of Knight Ridder was triggered by dissatisfaction with the company's stock price by institutional investors, a fact of corporate life not likely to be ignored by any new publicly traded purchaser.[17]

Knight Ridder papers were served by the chain's highly regarded Washington bureau; other publications also subscribe to the chain's news service. The bureau was widely admired by journalists, particularly for its skeptical reporting on the build-up to the Iraq war. While others in the Washington press corps also reported skeptically, challenges to the administration's case for war in these dispatches usually were buried. The Knight Ridder bureau stood out among the mainstream media by searching for dissenting voices and presenting them prominently.

It remains to be seen whether the sale of Knight Ridder results in weakening the Washington bureau. If so, that would be a loss for journalism and for the public's need for a variety of sources of information. It would mark a further, and significant, toll taken by the profit demands on the publicly traded press. Earlier, Knight Ridder, in a futile effort to satisfy Wall Street, had slashed payroll, including its international coverage. As The New York Times described the cutbacks recently, "The bigger [Knight Ridder] papers have done away with most of their prestigious foreign bureaus. A dozen years ago, The Philadelphia Inquirer had bureaus in Moscow, London, Rome, Jerusalem, South Africa, New Delhi and Berlin. Today, it has one correspondent in Jerusalem, having closed its only other bureau in Rome . . . ."[18]

The economic pressure on Knight Ridder to sell, despite the company's nineteen percent profit margin, exemplifies the plight of the publicly traded press, especially those segments of it that do not have strong family ownership of a class of stock. The institutional investors who own most newspaper company stock have, for the most part, far less interest in quality journalism than in the quality of the financial statements.

We interviewed many of the most influential stock analysts who follow the newspaper industry.[19] When asked if going public has been good or bad for journalism, the near-unanimous verdict that it has been harmful was telling, particularly since the analysts have a financial interest in the decisions to go public. The view of the analysts, namely that going public forced newspaper companies to become excessively focused on the bottom line at the expense of quality journalism, is widely shared in newsrooms. Gene Roberts, former editor of the *Philadelphia Inquirer*, spoke for many

---

17 Katharine Q. Seelye, *Weighing Knight Ridder Against Stubborn Worries*, N.Y. TIMES, Dec. 8, 2005, at C1.

18 *Id*.

19 TAKING STOCK, *supra* note 3, at 56-63.

journalists when he commented after leaving the Inquirer, "With the exception of a tiny handful of papers, the talk at the highest levels of newspapers these days is of increasing profits, increasing corporate pressure, increasing responsibility to shareholders."[20]

Note that Roberts spoke after he left the *Inquirer*. For obvious reasons, the toll taken by profit pressures seldom is articulated by working journalists. Now and then retired journalists speak out, but not with notable success. As for the public, consumers of news seldom are organized and may not even be aware of a newspaper's decline when it happens, as it frequently does, in undramatic incremental steps. The recent action by MoveOn Media Action, an offshoot of MoveOn.org, to object to job cuts at Tribune Company papers with petition drives and protest actions may have inadvertently underscored how rarely citizen activism targets the press.[21]

Cost-cutting has a price, and that price may include not only a less accurate and untrustworthy news report, but the cost of libel litigation due to shorthanded newsrooms staffed by less experienced, inadequately trained and over-worked personnel. Howard Tyner, former editor of the *Chicago Tribune*, described the effects of belt-tightening this way: "There's always a price for being lean. . . . I have top people who are terrific, and here and there I have deputies who are good. But it thins out real fast. And you can see it in the paper. We make more mistakes than we did before. . . . [The *Tribune*] would be edited . . . much better if we had more people there."[22] When Leonard Downie Jr. and Robert Kaiser of the *Washington Post* complained that "[t]oo much of what has been offered as news in recent years has been untrustworthy, irresponsible, misleading or incomplete," they fixed fault on newspaper management's single-minded focus on maximizing profits.[23]

This state of affairs led us recently to propose institutional liability for news organizations in the libel setting. In the context of libel suits against the press, if defamatory mistakes are made, and they give rise to litigation, attention almost always focuses on newsroom error. We believe that is myopic. When policies adopted in executive suites have a knowing and direct link to libelous stories, responsibility should be fixed where it belongs. That means looking beyond the person whose fingers produced an offending story to those who created or tolerated the conditions—shorthanded copy desks, overburdened editors, underpaid and insufficiently trained re-

---

20 *Corporatism vs. Journalism*, The Press-Enterprise Lecture Series, Number 31, Feb. 12, 1996, at 3.

21 Katharine Q. Seelye, *Group Says Tribune's Cuts Hurt the Public,* N.Y. TIMES, Dec. 26, 2005, at C5.

22 LEONARD DOWNIE JR. & ROBERT G. KAISER, THE NEWS ABOUT THE NEWS: AMERICAN JOURNALISM IN PERIL 84 (2002) (alteration in original).

23 *Id*. at 9.

porters that made the libel all but a predictable accident waiting to happen. Libel law needs to reflect the realities of bottom-line journalism today by holding institutions responsible for the consequences when they pay excessive heed to profits and share prices at the expense of their newsrooms.[24]

For present purposes, however, the point is not our suggestion of institutional liability, but the underlying changes in the news business and its markets—including the financial markets—that spurred the proposal. Newspapers need advertising, but advertising needs good and valuable journalism to attract the readers to the advertisements. Without good journalism and attention to its demands on behalf of the public, there will increasingly be less reason for individuals to seek their product information in the newspaper, as opposed to the ubiquitous shoppers and the websites on the internet. The business of newspapers must, at base, be news, not business.

B. Market Incentives Within the Firm[25]

The market—particularly the financial market—has placed demands on the operations of the newsroom in the public companies. And it has also placed strategically located incentives on management and even, in the form of stock options and financial bonuses, on editors and staff in the newsroom itself.

Here are some statistics. As the Twenty-first Century began, twenty-one percent of national daily newspaper circulation was owned by four companies. Seventy-five percent of daily newspaper circulation in the United States came from chains.[26]

Newspapers are no longer family owned. They are owned by institutional investors. Indeed, newspapers are more heavily owned by large and market driven institutional investors than any other major industrial group in this country. In 1994 the large institutional investors owned about sixty percent of the stock in the media giants, more than the average institutional investor ownership in the largest 500 companies in the United States.[27] The ten largest institutional investors (Berkshire Hathaway, Loews, Equitable, University of California Retirement Fund, etc.) owned forty-four percent of CBS, and they owned on average twenty-five percent of the thirteen largest media companies (Cap Cities, Gannett, Tribune, News Corp., Times Mirror, Knight Ridder, Washington Post, New York Times, Dow Jones, etc.).[28] In-

---

24 *See generally Institutional Reckless Disregard for Truth*, *supra* note 3.

25 Material in this section draws upon and is in part excerpted from TAKING STOCK, *supra* note 3, and *Institutional Reckless Disregard for the Truth*, *supra* note 3.

26 *See generally* TAKING STOCK, *supra* note 3, at 22-33 (discussing newspaper circulation and ownership).

27 *See generally id*., at 17-72 (discussing publicly newspaper ownership and control).

28 *See id*., at 41-55 (discussing ownership and control of newspapers).

stitutional investors owned 94 ninety-four percent of CBS stock in 1994. A single institutional investor owned twenty percent of CBS, fifteen percent of the Washington Post, and thirteen percent of Cap Cities/ABC.[29] Institutional investors aren't bad people . . . but they are sophisticated investors. Institutional investors protect their stakes; they exert influence on business objectives; they demand respect in the bottom line and insist on short-term market returns.

What about the management of these media companies? Executive management in these media firms possesses great business and financial talent, but with few exceptions there is no news experience to be found in the ranks of executive management or among outside directors.

And there are few if any incentives for the *quality* of journalism and news within the compensation structure of the firm. Instead, incentives (salary, bonus, options, and retirement system investments) are almost all geared to the short term bottom line, to revenues, costs, and profits, and to market performance of the holding company's stock. These incentives now penetrate into the newsroom of the newspapers owned by the company—to the compensation of editors and reporters.

Revenues and profits are the goal to which all efforts bend. Revenues mean advertisers. Advertisers thrive on purchasers. News is a vehicle for delivering advertising. Give people what they want, not what they need.

The combination of consolidation and public ownership has powerfully concentrated the minds of media managers on maximizing profits. As noted earlier, veteran *Washington Post* journalists Leonard Downie Jr. and Robert G. Kaiser described the consequences:

> Too much of what has been offered as news in recent years has been untrustworthy, irresponsible, misleading or incomplete. . . .
>
> Most newspapers have shrunk their reporting staffs, along with the space they devote to news, to increase their owners' profits. Most owners and publishers have forced their editors to focus more on the bottom line . . . .
>
> If most newspapers have done poorly, local television stations have been worse . . . . The national television networks have trimmed their reporting staffs and closed foreign reporting bureaus to cut their owners' costs . . . .
>
> . . . Most newspapers, television networks and local television and radio stations now belong to giant, publicly owned corporations far removed from the communities they serve. They face the unrelenting quarterly profit pressures from Wall Street now typical of Ameri-

29 *Id.*

can capitalism. Media owners are accustomed to profit margins that would be impossible in most traditional industries.[30]

It has become almost a cliché among journalists to observe that, while the press is a business, it is a different kind of business because of the informing role it plays in a democratic society. But when newspaper companies opted to go public, they declared in essence that they wanted to be treated the same as any other enterprise in the marketplace.[31]

Increasingly, media companies resemble and behave the same as any other business; the composition of their boards of directors are indistinguishable from other corporate boards, and their compensation incentives are no different from the proverbial manufacturer of widgets. In 2003, the CEO of Gannett, the nation's largest newspaper chain, received $1,600,000 in salary, $2,250,000 in bonus, and 400,000 stock options.[32] The compensation, which is certainly not out of the norm for large consolidated media companies, is justified by "the Company's performance,"[33] which means shareholder return on investment, return on assets, return on equity, operating cash flow, operating income, stock price, and market value. Gannett lauds its operating margins as "among the best in the industry."[34] The company's proxy statement does not even mention the quality and strength of journalism practiced in the newsrooms owned by Gannett. And as Gannett applauds its investment performance, the Project for Excellence in Journalism, in discussing the state of journalism generally, describes "a difficult environment—more pressure on people, less time to report stories."[35] Journalism is contributing to the bottom line of the large companies, not by improving journalism's quality, but by sacrificing it.

A.J. Liebling's famous statement can be updated to apply to the modern media manager: "The function of the press in society is to inform, but its role is to make money. The [media executive's] reaction, on being told that he ought to spend some money on reporting distant events, is therefore exactly that of the proprietor of a large, fat cow, who is told that he ought to enter her in a horse race."[36]

---

30 DOWNIE JR. & KAISER, *supra* note 22, at 9-10.

31 TAKING STOCK, *supra* note 3, at 17–76.

32 Gannet Co, Inc., Proxy Statement, at 12-13 (Mar. 12, 2004), http://media.corporate-ir.net/media_files/irol/84/84662/reports/2004proxy.pdf (last visited Jan. 2, 2007).

33 *Id*. at 11.

34 *Id*.

35 PROJECT FOR EXCELLENCE IN JOURNALISM, THE STATE OF THE NEWS MEDIA 2004: AN ANNUAL REPORT ON AMERICAN JOURNALISM (2004), http://www.stateofthemedia.org/2004/narrative_overview_newsinvestment.asp?media=1 (last visited Aug. 11, 2006).

36 A. J. LIEBLING, THE PRESS 7 (1961).

VI. CHANGING OPERATION OF THE NEWSROOM

Corporate strategy, cost efficiency, net revenue growth, and targeted marketing are now the watchwords.

News staff is down. Newsholes are down. News coverage is down.

All newspapers are labor-intensive; many are also profit-driven. Efforts to improve balance sheets almost unavoidably affect staffing. Whether managements opt for layoffs, buyouts, or trims by attrition, the net effect of downsizing is to diminish the newsroom's ability to "ride herd" on error. Ironically, the most caring and generous of the measures, the buyout, may be the riskiest because it encourages departure of the most experienced employees—the senior staffers with institutional memory and familiarity with the community that make them especially effective bulwarks against error.

Newsrooms lost about 2200 employees between 1990 and 2003.[37] The observation by veteran former editor Gene Roberts that, while he has heard of papers with reduced staff that improved, he has never seen one, is telling.[38] In *The News About the News*, Leonard Downie Jr. and Robert Kaiser described the critical importance of adequate staffing. "Adding employees allows a paper's ambitions to rise and gives all staff members more time to do their job more carefully. Management that supports its journalists with resources will bring out their very best. Managements that cut and squeeze demoralize their people as they shortchange their readers."[39]

Incremental news coverage is discouraged: don't bore the reader with repetition, don't spend time and effort until you know where a story is leading, even where it ends. Just report it after it's over. It saves time, space, personnel.

Public journalism is here. Be part of the community. Don't look for bad news. Don't focus only on problems, but on solutions. Don't cover public meetings, it tells us. Sponsor them, as Gene Roberts puts it.

Newspapers increasingly map their strategies by organizing focus groups and conducting market surveys, all in the name of better news. To us, this is like a lawyer taking a poll—a market survey—to decide whether

---

37 AMERICAN SOCIETY OF NEWSPAPER EDITORS, NEWSROOM EMPLOYMENT CENSUS, Table A (2003), *available at* http://www.asne.org/index.cfm?ID=1138 (last visited Aug. 10, 2006). Advertising is the prime source of newspaper revenue. It tends to be cyclical, ebbing and flowing with the economy. Newspapers often reduce staff in response to economic downturns, but many times they do not recoup all of the staff losses during recovery, thereby creating a more or less permanent and heightened risk of institutional indifference to journalism. *See* TAKING STOCK, *supra* note 3, at 24.

38 Interview with Gene Roberts (May 28, 2004); *see generally* LEAVING READERS BEHIND: THE AGE OF CORPORATE NEWSPAPERING (Gene Roberts et al. eds., 2001).

39 *Institutional Reckless Disregard for Truth*, supra note 3, at 895-96 (quoting LEONARD DOWNIE, JR. & ROBERT G. KAISER, THE NEWS ABOUT THE NEWS: AMERICAN JOURNALISM IN PERIL 84 (2002)).

and how to defend an unpopular client. By these steps news judgment is given up, in invisible increments, to the reader.

The newspaper companies that are publicly traded must be mindful both about the return to their investors and about the economic performance of their peers. Few papers face newspaper competition in the communities where they publish, but their parent corporations compete for investors in the marketplace. Thus, profit margins are watched closely by stock analysts, and comparisons are made. As Knight Ridder CEO Anthony Ridder ruefully noted, the analysts would "be much happier if we had Gannett margins; they'd jump with joy if we said we'd have Gannett margins . . . ."[40]

The upshot is that the most profit-hungry companies, the ones most heedless of the adverse consequences of cost-cutting on editorial standards, affect not only their own newsrooms but also newsrooms elsewhere.

The bonuses and stock options at publicly traded newspaper companies are heavily weighted toward rewarding the achievement of financial targets rather than improving quality.[41] When Geneva Overholser was editor of the Gannett-owned *Des Moines Register* in the 1990s, her bonus objectives included this one established for her by corporate: "Help the company make budget by staying within extremely tight expense budgets, conserving newsprint and participating in intracompany efforts to become more efficient. Stay within budgeted amounts for payroll (eliminating two positions and saving $100,000)."[42]

That seems almost benign compared to what consultants recommended for the *Winston-Salem (North Carolina) Journal*, owned by the publicly traded Media General company. The money-saving formula the consultants devised directed that "[a]n A-1 [front-page] story should be six inches or less. A reporter should use a press release and/or one or two 'cooperative sources.' He or she should take 0.9 hours to do each story and should be able to produce 40 of these in a week."[43] The formula was widely derided, and it was scrapped, but the consultant did succeed in trimming twenty percent of the paper's 600-person workforce.[44]

While the *Winston-Salem* paper's experience with by-the-numbers-journalism may have been an aberration, editors nowadays face heavy bottom-line pressure. Downie and Kaiser described their predicament:

> [M]ost of the corporations that own newspapers are focused on profits, not journalism. Editors who once spent their days working with reporters and editors on stories now spend more of their time in meet-

40 TAKING STOCK, *supra* note 3, at 58.

41 TAKING STOCK, *supra* note 3, at 577-107 (discussing "Organizational Behavior and Dynamics in the Publicly Traded Newspaper firm")

42 DOWNIE JR. & KAISER, *supra* note 22, at 94.

43 *Id.* at 97.

44 *Id.*

> ings with the paper's business-side executives, plotting marketing strategies or cost-cutting campaigns. Chain editors now routinely have two titles: editor *and* vice president of a big corporation.[45]

Advertising is the prime source of newspaper revenue.[46] It tends to be cyclical, ebbing and flowing with the economy. Newspapers often reduce staff in response to economic downturns, but many times do not recoup all of the staff losses during recovery, thereby creating more or less permanent and heightened risk of institutional error.

The proverbial last line of newsroom defense against error traditionally has been the copy desk, but at many papers it has become a porous defense. When page make-up formerly done in composing rooms shifted to newsrooms, the task of electronic composition known as pagination frequently fell to copy editors, who became primarily paginators (electronic page designers) and only incidentally, if at all, guardians against error.[47] The switch to pagination enabled newspaper companies to wipe out whole composing rooms, whose employees usually were union members, while the newsroom employees who replaced them usually were not organized.

Pagination increases the workload. By one estimate, it adds between a shift and five shifts of staff time daily, depending on the size of the paper. Unless staff is added to compensate for pagination, copy editing, and thus accuracy, is bound to suffer.[48] Flawed heads and error-laden copy that emerge from copy desks too busy paginating to flag the errors and raise questions about stories because the companies chose to improve the bottom line, rather than add staff, are classic forms of institutional error.

Turnover explains much about what is wrong in newspapers. The managing editor of the *Sarasota Herald-Tribune* admitted in a December 24, 2000 column to readers, "For the fourth time in five years, this newspaper is looking for a new Manatee County government reporter." The editor related how a school board member complained:

> In the four years I've been on the board, we've had seven different education writers from the *Sarasota Herald-Tribune*. By the time one figured out what was going on, they were gone, and somebody else was in there. We knew what was going on (with school budget problems). We talked about it, and it did not get reported.[49]

Turnover limits experience, which is compounded when reporters are inadequately trained to begin with. As Robert J. Haiman reported in a study

---

45 *Id.* at 68.
46 TAKING STOCK, *supra* note 3, at 24.
47 *Id.* at 53-55.
48 *Id.*
49 Rosemary Armao, Editorial, Herald-Tribune *Is Trying Hard to Keep Continuity of Coverage*, SARASOTA HERALD-TRIB., Dec. 24, 2000 at 38.

for The Freedom Forum, "Business, community and civic leaders say they and their organizations often are covered by reporters who simply do not know enough about the subjects they are trying to report on. Inability to report with authority was cited repeatedly as a problem . . . ."[50]

Various sources told Haiman:

> 'The reporters just come and go; by the time they learn something about us they are shifted to another beat.' . . . 'The stories she writes about us are so oversimplified and distorted we'd rather not have any coverage at all.' . . . 'Surely there must be one business reporter who majored in economics instead of English?' . . . 'The sports reporters seem to be experts about sports; how come the business reporters aren't experts about business?' . . . 'Too often, reporters haven't bothered to do their homework; they're unprepared and we're spending all of our time getting them up to speed on an issue.' . . . 'I know this stuff can get a little complicated at times, but if he doesn't understand it, how can he make it understandable for his readers?'[51]

Yet papers persistently downsize payroll, and thus encourage turnover, even as they fail to invest sufficiently in training those who stay. When poorly paid and trained reporters who lack background in the subjects they cover produce stories riddled with errors, and they are insufficiently checked by copyeditors and inadequately supervised by overworked editors, that is a recipe for institutional error, not to mention libel suits.

VII. CHANGING DEFINITIONS OF NEWS

Blogs as a whole—the blogosphere—are a new department store of news and public opinion. But the analogy is in one crucial way wrong: there is no single building or publication in which variety is presented whether we like it or not. In the blogosphere we have a vast mall of small specialized stores. Technology allows us to construct the contents of our own department store by picking and choosing those shops and products we like, assembling them in our "favorites," for example, as a personal department store selling styles and subjects we prefer—with news, conservative or liberal, brash or logical, fact or opinion, argumentative or reflective. And as newspapers adapt to this technology and medium, they too will offer us the mixtures we want, too.

Some people think that blogs are the future of news—both print and broadcast. They seem exceedingly well adapted to the new economics of

---

[50] Robert J. Haiman, *Best Practices for Newspaper Journalists* 23, *available at* http://www.freedomforum.org/publications/diversity/bestpractices/bestpractices.pdf (last visited Aug. 10, 2006).

[51] *Id.* at 23-24.

news and to the consumers' preference for control. But whether the future is blogs or something else, content change and market atomization and customer/reader control are already here and spreading their influence. And epistemological change—self-enforced limits on what we see and hear and read, and thus what we know and what we can know—may not be far behind.

New social divisions are emerging. Markets are now being defined in socioeconomic terms, and the art of targeting markets by publications, even newspapers, has been greatly assisted by information technology—buying habits, interests, income, wealth, jobs, etc. In this sense news has become a very powerful delivery vehicle, and news can be, and is, couched to the interests of the targeted audience. In this sense news is retribalizing us.

With the passing of newspapers' news-shaping power in the *mass* market, the capacity for news judgment independent of the owner has increased, but simultaneously the capacity for news judgment independent of the *market*—independent of the advertiser and, ultimately, of the audience—has been undermined. The reversal of the economies of scale has left a journalistic vacuum which, ineluctably, the readers, and the audience-oriented advertisers, have occupied.

When news is governed by the audience, we get what we want, not what we need. When news is governed by focused advertisers, the gap between news and advertisement, between information and impression, between reason and emotion, narrows. Advertisements, it has been said, often wrap up our emotions and give them back to us. Their content is like an inert gas. It is not surprising, then, that the nature of media content, and even news, begins to partake of qualities of inert gas.

VIII. CONCLUSION: THE DISAPPEARING DAILY DEPARTMENT STORE OF NEWS AND OPINION

The basic economic structure of the newspaper business is radically reversing itself from that noted by the Hutchins Commission in 1947.[52] Editorial freedom in 1947 centered on enforcing a distance between the editor and the owner. Today editorial freedom demands that we enforce a distance between the editor and the reader.

In 1947 the newspaper was like a huge department store. Today it is becoming a boutique. In 1947 the technology of news was bundling—putting all sorts of stuff together in a single news product, a department store for news. Today the technology of news is unbundling, the targeting of audience and narrowing of its news, governed by the new economies of small scale, rapid response, and market segmentation.

---

[52] *See generally* A FREE AND RESPONSIBLE PRESS (Robert D. Leigh ed., Midway reprint 1974).

In 1947 news technology was based on standardization and mass production. Today the technology is the technology of variety, of localism. Then, it was the technology of hardware—printing presses, delivery vans. Today, it is the technology of software, of computer-based production and printing, of instantaneous communication, of localized production and advertising, and now, with the internet, of the individual's power over content and the shape of news received—soon, perhaps, even software's power over the individual's preferences. Increasingly, news is news for our niche and segment, adapted to our demographic, and ultimately adapted to what the software learns about our behavior and choices. This is the age of artificial intelligence, learning technology, push technology. It is also, we fear, the beginning of an age of retribalization, a time when news will become, not what some damned editor thinks is important for all of us to know, but instead a picture of the world as we wish it, as we see it in our own mind's eye. This represents an <u>epistemological</u> transformation, not just an economic or technological one.

Today news *content* is increasingly shaped by the advertiser and by the audience, but in a segmented, and often demographically defined (and socioeconomically homogeneous) market, not a mass market. We don't mean the sentences in the stories, or even their slant. We mean, instead, the definition of what kinds of stories count as news, and how and why they count. Advertiser and owner ideology is not the main problem, audience ideology is.

* * *

Freedom of the press was the hard-fought victory in the people's struggle for current information that was cheap, available to everyone, useful, needed, and selected without government influence.[53] Freedom of the press today is moving toward information that is expensive, restricted in availability, specialized, wanted (not needed), and selected without government influence. The only common element is the lack of government influence. But isn't that definition of "independent", when it comes to the press, too narrow? Doesn't that definition disserve the idea of the journalist, the editor, making his or her *own* decision about what is important and useful and generally needed—making the decision, most importantly, in that middle distance between the whim of the owner and the will of the audience?

We think so.

---

[53] *See generally* RANDALL P. BEZANSON, TAXES ON KNOWLEDGE IN AMERICA (1994).