Comments to the Federal Trade Commission and Department of Justice

Regarding Forthcoming Revisions of Merger Guidelines

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Docket No. FTC-2022-0003

The NewsGuild-CWA respectfully submits comments regarding revisions to the merger guidelines.

Founded in 1933, The NewsGuild is the largest labor union of journalists and media workers in North America, representing about 20,000 workers at large and small publications. Our parent union, the Communications Workers of America, represents workers in telecommunications, customer service, media, airlines, health care, public service and education, and manufacturing.

The NewsGuild commends your agencies' seeking comments on how they can modernize enforcement of the antitrust laws regarding mergers. We appreciate your particular interest in aspects of competition that your agencies, in both the merger guidelines and enforcement of the Clayton Act, have, in the past, underemphasized or neglected, such as labor market effects and non-price elements of competition like quality and any trend toward concentration.

You have also requested specific examples of mergers that have harmed competition, with descriptions of how the merger harmed competition, including how those mergers made it more difficult for customers, workers, or suppliers to work with the merged firm or competitors of the merged firm or made it more difficult for rivals to compete with the merged firm.

Toward that end, my comments examine the trend toward concentration in the newspaper industry, the adverse impact this increasing concentration has had on both upstream labor markets and downstream readership markets in terms of quality (and price), and the broader implications of this trend toward concentration. As Justice Frankfurter observed about anticompetitive restraints in the newspaper industry:

> A free press is indispensable to the workings of our democratic society. The business of the press, and therefore the business of the Associated Press, is the promotion of truth regarding public matters by furnishing the basis for an understanding of them. Truth and understanding are not wares like peanuts or potatoes. And so, the incidence of restraints upon the promotion of truth through denial of access to the basis for understanding calls into play considerations very different from comparable restraints in a cooperative enterprise having merely a commercial aspect.[1]

A competitive "marketplace of ideas" plays a critical role in our democracy. And effective antitrust policies and enforcement are necessary to preserve and promote such competition. The belief that the Internet will naturally facilitate a vibrant marketplace of ideas, and reduce the need for antitrust has been proven false.

Thus, our comments are organized around the following four points: First, the situation of local news is deteriorating to the point that it threatens our democracy. Second, the state of competition in the news industry shows evidence of an emerging duopoly in traditional news. Two recent mergers (the GateHouse purchase of Gannett and the Alden Global Capital acquisition of Tribune Publishing) have accelerated that trend toward concentration. Third, in addition to its impact on the marketplace of ideas, this duopoly has implications not only on quality and advertising and subscription pricing downstream, but also on wages upstream. Fourth, we suggest possible improvements in the review process for mergers in the media sector.

The Crisis of Local News and Its Implications

Local news is facing a crisis in the United States, and it is a crisis of democracy - from the grassroots in cities and towns across the nation. We have far fewer journalists covering local government and community issues. This was the key function our nation's founders saw in news gathering when they referred to the industry in the First Amendment. How this reportorial oversight is nourished is an important question that demands an understanding of ownership and market concentration as well as business practices that harm media companies, cost consumers, and hurt our democracy.

[1] Associated Press v. United States, 326 U.S. 1, 27–28, 65 S. Ct. 1416, 1428, 89 L. Ed. 2013 (1945) (Frankfurter, J., concurring). The case involved AP's prohibition of member newspapers from sharing content to nonmembers. The court ruled that it was a restraint of trade under the Sherman Act. According to the decision, freedom of the press from government interference under the First Amendment does not include allowing private members of the news industry to restrict the press freedom of others.

There are fewer watchdogs in our communities today. Researcher Penny Muse Abernathy found that 2,100 newspapers stopped publishing between 2004 and 2019.[2] At least 100 have closed in 2020-2021.[3] Hundreds more are "ghost newspapers," with so few staff that they can barely provide coverage of breaking news, much less investigative reporting.[4] Fewer journalists mean less investigative journalism and fewer reporters covering city hall and the state capitol. The hardest-hit areas of the country are rural areas and the small- and medium-size cities — as of 2019, according to the Bureau of Labor Statistics, one in five journalists works in Washington, New York City or Los Angeles.[5]

Between 2008 and 2019, newspapers lost 40,250 jobs, according to the Pew Research Center, a decline that shrank those newsrooms by more than half.[6] During the COVID-19 pandemic, newsrooms have lost several thousand jobs, and suffered some temporary furloughs and other permanent reductions.

It should be noted that employment has crept up in digital-native outlets. Between 2008 and 2020, digital native news jobs more than doubled to 18,030 jobs. This increase does not compensate for the loss of jobs or local news coverage, as the largest employers in this sector tend to target national audiences, with heavy focus on entertainment, sports or opinion coverage. Moreover, many of these digital outlets have likewise been hit hard by the pandemic: outlets such as Buzzfeed, Vox Media, Vice Media, Maven Media, and The Athletic suffered significant layoffs in 2020.

We face an extinction-level moment for local news. Researchers at the University of North Carolina's Hussman School for Journalism have developed a term, "news deserts," to describe communities that have no source of local news, and there are 2,000 of them across the country, in red states and blue states, but mostly in poorer communities, across urban areas,

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[2] Penny Muse Abernathy, "News Deserts and Ghost Newspapers: Will Local News Survive?" Hussman School of Journalism and Media, University of North Carolina, 2020: https://www.usnewsdeserts.com/wp-content/uploads/2020/06/2020_News_Deserts_and_Ghost_Newspapers.pdf

[3] Kristen Hare, "More than 100 local newsrooms closed during the coronavirus pandemic," Poynter, December 2, 2021: https://www.poynter.org/locally/2021/the-coronavirus-has-closed-more-than-100-local-newsrooms-across-america-and-counting/

[4] Margaret Sullivan, "Ghosting the News: Local Journalism and the Crisis of American Democracy," Columbia Global Reports, 2020.

[5] Pew Research Center, "One-in-five U.S. newsroom employees live in New York, Los Angeles or D.C.," https://www.pewresearch.org/fact-tank/2019/10/24/one-in-five-u-s-newsroom-employees-live-in-new-york-los-angeles-or-d-c/

[6] Pew Research Center, "Newsroom employment at U.S. newspapers has plummeted since 2008 but grown at digital publishers," July 13, 2021: https://www.pewresearch.org/fact-tank/2021/07/13/u-s-newsroom-employment-has-fallen-26-since-2008/ft_2021-07-13_newsroomemployment_02/

small towns, and rural communities.[7] News deserts are a nationwide problem. Some 65 million people live in areas with limited access to local news.[8]

The Hussman School researchers identified 200 counties in the U.S. with no paper or alternative source of credible information on local news. For instance, over 10% of the counties in Georgia and almost 9% of the counties in Florida lack any news outlet whatsoever.

Counties with weekly newspapers cannot expect the same level of government oversight as those with dailies. Certainly, if an area has only one weekly, such coverage is likely to be thin. The problem of weak news coverage has expanded over the last decade. Almost 68% of Georgia counties, 40% of Colorado counties, almost 40% of North Dakota counties, and almost 35% of Maryland counties fit this description of relying solely on a weekly news publication.

While comprehensive data on outlets serving Black and brown communities is more limited, many of these papers have faced similar problems. For example, the *Charlotte Post* at one point had 38 newsroom staff, but now has just 19.[9] Meanwhile, New America Media, an association of ethnic news outlets that once involved 3,000 organizations, closed in 2017.[10]

The crisis in local and community-based news is a crisis of journalism jobs and communities not served with the information and coverage they need. Newsroom staffs are stretched so thin that they cannot effectively cover local government. One of our NewsGuild-CWA members, a municipal reporter at *The Mercury* in Pottstown, Pennsylvania, is now tasked with reporting on elections and governmental actions in over 50 jurisdictions. Using a sample of 121 daily newspapers for which longitudinal data was available, a recent academic study found that the number of local news stories declined by 56% between 1999 and 2017.[11]

The deterrent effect of local news coverage on political corruption is well known in cross-national research. It is a small wonder that the lives of journalists around the world are constantly under threat. PEN America highlights the case of Bell, California, in which a lack of news coverage enabled the city council to circumvent state mandates on salaries, leading to

[7] In fact, they define a news desert as "a community, either rural or urban, with limited access to the sort of credible and comprehensive news and information that feeds democracy at the grassroots level." See Abernathy, “News Deserts and Ghost Newspapers.”

[8] Hendrickson, Clara. "Local Journalism In Crisis: Why America Must Revive Its Local Newsrooms." Brookings Institution report, Nov. 12, 2019. https://www.brookings.edu/research/local-journalism-in-crisis-why-america-must-revive-its-local-newsrooms

[9] Abernathy, “News Deserts and Ghost Newspapers.”

[10] Walsh, Joan. “New America Media Is Closing—and That’s Bad News for All American Media.” The Nation, Nov. 3, 2017: https://www.thenation.com/article/archive/new-america-media-is-closing-and-thats-bad-news-for-all-american-media/. See also Pew Research Center, “Hispanic and Black News Media Fact Sheet,” July 27, 2021: https://www.pewresearch.org/journalism/fact-sheet/hispanic-and-black-news-media/

[11] Danny Hayes and Jennifer L. Lawless, *News Hole: The Demise of Local Journalism and Political Engagement* (Cambridge, U.K.: Cambridge University Press, 2021), p. 27.

exorbitant paychecks for city officials.[12] The investigative reporter Julie Reynolds recalls an instance of police corruption in southern Monterey (California) County that the newsroom at the *Monterey Herald* (a paper owned by the hedge fund Alden Global Capital) had heard about but could not spare the staff to cover. The next year, the scandal came to light when six police officers were arrested and convicted of felony charges.[13]

Lack of local news sources leads to identifiable losses for a community. When news jobs are axed, meetings of government officials with the public are not covered. Budgets are voted on and contracts tendered without outside scrutiny. Scholarly research has suggested that towns pay higher rates for municipal bond offerings when the local newspaper shuts down because finance companies assume a higher risk of corruption.[14] They also experience higher rates of municipal taxation when the local paper closes.[15]

Areas with no local news source show increasing political partisanship, and also lower voter turnout.[16] According to Hayes and Lawless, the information received from local news is critical to individual decision-making in the electoral arena:

> [W]hen citizens lose access to political information , they become less knowledgeable about their elected officials and less likely to vote. Getting informed and participating in politics is costly - it requires some level of investment, whether time, money, or effort. News media provide an information subsidy that reduces the cost of that investment.[17]

The disappearance of local news or even the cutbacks in local news coverage negatively affect citizens' knowledge about local government.

Other studies suggest diminishment of news coverage lowers civic engagement. The Pew Research Center in association with the John S. and James L. Knight Foundation found that

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[12] PEN America, "Losing the News: The Decimation of Local Journalism and the Search for Solutions," November 20, 2019: https://pen.org/wp-content/uploads/2019/12/Losing-the-News-The-Decimation-of-Local-Journalism-and-the-Search-for-Solutions-Report.pdf

[13] Lee Romney, "Scandal Rocks Police Force in Monterey County Town, *Los Angeles Times*, February 25, 2014: https://www.latimes.com/local/la-xpm-2014-feb-25-la-me-king-city-police-20140226-story.html

[14] Kriston Capps, "Uncovering the Financial Impacts of Local News Deserts," *Pacific Standard*, June 5, 2018: https://psmag.com/economics/economic-damage-from-losing-local-news. The academic paper can be found here: Pengjie Gao, Chang Lee, and Dermot Murphy, Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance, *Journal of Financial Economics*, vol. 135, no. 2 (2020), pp. 445-467: http://dx.doi.org/10.2139/ssrn.3175555 . The authors found that in the three years after a newspaper closed, municipal bond offering yields increased by 5.5 basis points, while yields in the secondary market increased by 6.4 basis points.

[15] Gao, Lee, and Murphy.

[16] Matthew P. Hitt, Joshua Darr, Johanna Dunaway, "Why Losing Our Newspapers Is Breaking Our Politics," *Scientific American*, March 26, 2019: https://www.scientificamerican.com/article/why-losing-our-newspapers-is-breaking-our-politics/

[17] Hayes and Lawless, p. 6.

those individuals who were high consumers of news were more likely to be active participants in their communities - via voting in local elections, attending meetings, or volunteering in charitable efforts.[18] This suggests that news vacuums suck the civic oxygen out of local communities. National news outlets do not fill that void.

Voter turnout is lower and partisanship is stronger in news deserts.[19] Voters are less likely to split their tickets between candidates for the two main political parties in news deserts after local news outlets have been lost, showing that lack of information about community issues due to newsroom closures is driving an increase in the partisan political divide.[20] As newspapers close, residents rely more on other media - cable television and non-news sources on the Internet - for their political coverage, which is focused on topics of national interest. Social media is self-selective and reinforces ideological silos and partisanship.[21]

This drastic, dangerous decline in local news demands public policy solutions to sustain an industry that the founders of our nation knew to be essential to American democracy.

The Withering of Competition in the News Industry

Two factors have significantly contributed to the problems of local news – the advent of Big Tech platforms and newspaper industry consolidation.

Serious attention has been paid to Big Tech's anticompetitive restraints that have harmed, among many industries, newspapers.[22] News readership has migrated to Facebook and Google.

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[18] Michael Barthel, Jesse Holcomb, Jessica Mahone, and Amy Mitchell, "Civic Engagement Strongly Tied to Local News Habits," Pew Research Center, November 3, 2016: https://www.journalism.org/2016/11/03/civic-engagement-strongly-tied-to-local-news-habits/

[19] Hitt, Darr, and Dunaway, "Why Losing Our Newspapers Is Breaking Our Politics." See also Lindsay H. Hoffman and William P. Eveland Jr., "Assessing Causality in the Relationship Between Community Attachment and Local News Media Use," *Mass Communication and Society*, vol. 13, no.2 (April 2010), pp. 174-195: https://www.tandfonline.com/doi/full/10.1080/15205430903012144

[20] Joshua P. Darr, Johanna L. Dunaway, and Matthew P. Hitt, "Want To Reduce Political Polarization? Save Your Local Newspaper," Nieman Lab, February 11, 2019: https://www.niemanlab.org/2019/02/want-to-reduce-political-polarization-save-your-local-newspaper/

[21] Joshua P Darr, Matthew P Hitt, Johanna L Dunaway, "Newspaper Closures Polarize Voting Behavior," *Journal of Communication*, vol. 68, no. 6 (December 2018): https://doi.org/10.1093/joc/jqy051

[22] Majority Staff, U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Antitrust, Commercial and Administrative Law, "Investigation of Competition in Digital Markets," October 2020: https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519. Also, Senator Maria Cantwell, Ranking Member, U.S. Senate Committee on Commerce, Science, and Transportation, "Local Journalism: America's Most Trusted News Sources Threatened," October 2020: https://www.cantwell.senate.gov/imo/media/doc/Local%20Journalism%20Report%2010.26.20_430pm.pdf. Various state attorneys general have also articulated their concerns in their legal complaint versus Google. See Texas, Arkansas, Idaho, Indiana, Kentucky, Mississippi, Missouri, North Dakota, and South Dakota v. Google, Complaint, U.S. District Court, Eastern District of Texas, December 16, 2020, No. 4:20-cv-957: https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/20201216%20COMPLAINT_R

Due to the size and reach of the platforms, these sites can reach customers at substantially lower costs. Advertising spending has also migrated toward this lower-cost access to consumers and away from traditional news publishers. Overall, the Internet attracts over 8 times the digital advertising revenue of the newspaper industry.[23] Facebook and Google together consume 53% of display ad revenue, and Facebook alone captured 60% of the mobile digital display advertising.[24] Meanwhile, print advertising declined 80.5% between 2005 and 2020.[25]

Less attention has been paid to the increasing consolidation within the newspaper industry as a factor in the local news crisis. The increase in concentration is not simply the result of the closure of newspapers, although, as the North Carolina studies have uncovered, that has led to news deserts. The NewsGuild has also been concerned about how acquisitions have increased organizational efficiencies within individual news companies at the expense of workers, readers, and the broader community.

GateHouse Media long had an appetite for acquisitions, which, along with its dividend, attracted investors. As we predicted at the time, the 2019 GateHouse-Gannett merger (in which the merged entity took the Gannett name) has substantially lessened competition in upstream labor markets, in particular reporting beats.[26] Indeed, the merger itself was justified by the $275-$300 million worth of pecuniary synergies – largely labor costs – that would be generated.[27] At the end of 2019, just weeks after the merger, the company reported to the Securities and Exchange Commission that it had 21,255 employees in the U.S. [28] Two years later, that number was reduced to 13,800 employees.[29] Gannett reduced its workforce by 35.1% in two years. A small part of that reduction occurred through the sale of small isolated

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EDACTED.pdf. For the Australian case, see Australian Competition and Consumer Commission, "Digital Platforms Inquiry - Final Report," June 2019: https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report. For the United Kingdom, see Competition & Markets Authority, "Online Platforms and Digital Advertising: Market Study Final Report," July 1, 2020: https://assets.publishing.service.gov.uk/media/5fa557668fa8f5788db46efc/Final_report_Digital_ALT_TEXT.pdf

[23] A. Guttman, "Advertising spending in the U.S. 2021-2025, by medium," October 11, 2021," Statista: https://www.statista.com/statistics/191926/us-ad-spending-by-medium-in-2009/

[24] Pew Research Center, " Digital mobile display advertising revenue by company," July 27, 2021: https://www.pewresearch.org/journalism/chart/sotnm-digital-mobile-display-advertising-revenue-by-company/

[25] Pew Research Center, "Newspapers Fact Sheet," June 29, 2021: https://www.pewresearch.org/journalism/fact-sheet/newspapers/

[26] The NewsGuild-CWA, "GateHouse-Gannett Merger Threatens Journalism," October 2019: https://newsguild.org/wp-content/uploads/2019/11/Statement-on-GateHouse-Gannett-Merger.pdf

[27] New Media Investment Group (parent company of GateHouse Media), earnings call, October 31, 2019, included in SEC Form 425, October 31, 2019: https://www.sec.gov/Archives/edgar/data/1579684/000114036119019539/nc10003799x23_425.htm

[28] SEC Form 10-K, Gannett Co., March 2, 2020: https://www.sec.gov/ix?doc=/Archives/edgar/data/1579684/000157968420000006/gci-20191231x10k.htm

[29] SEC Form 10-K, Gannett Co., February 24, 2022: https://www.sec.gov/ix?doc=/Archives/edgar/data/1579684/000157968422000010/gci-20211231.htm

papers, but the vast majority was purposeful - through buyouts, turnover, and layoffs. This has not been a wholesale push for economic efficiency in which duplicate services were consolidated. Instead, journalist positions are left unfilled, fewer news events are covered, and journalist compensation has stagnated. Understaffed papers have frayed the "connective tissue" that connects individuals to each other in the areas served by Gannett, as what happened after the Burlington, Iowa-based *Hawk Eye* was purchased in 2016.[30]

The Alden takeover of Tribune Publishing, announced in December 2020 and approved by the Tribune shareholders in May 2021, has prompted even more severe cutbacks. In the 21 months between the closing of the acquisition in May 2020 and March 2022, Tribune cut 55% of the staff at the *Chicago Tribune*, 45% at the *Morning Call* in Allentown, PA, and 55% at the *Hartford Courant*.[31] The Alden mode appears to be: buy an asset and immediately reduce staffing. MediaNews Group (MNG) acquired *The Boston Herald* out of bankruptcy in February 2018. Since the purchase, NewsGuild-CWA representation has dropped from 108 in January 2018 to 14 workers in March 2022, an 87% decrease in slightly more than 4 years.[32]

Alden bought *The Reading Eagle* from a bankruptcy court in May 2019 and terminated all 221 employees, requiring employees to reapply for their jobs.[33] (140 positions were re-hired.[34]) In April 2020, an additional 19 workers at the *Eagle* were laid off.[35]

The North Carolina researchers found that Alden reduced headcount at twice the rate of the industry average.[36] This finding is consistent with evidence from units organized by The NewsGuild. Again, this reduction in workforce did not result in any efficiencies that benefited either workers or readers. Instead, employment has been reduced, news coverage has shrunk and the audience receives poorer quality local information.

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[30] Elaine Godfrey, "What We Lost When Gannett Came to Town," *The Atlantic*, October 5, 2021: https://www.theatlantic.com/politics/archive/2021/10/gannett-local-newspaper-hawk-eye-iowa/619847/

[31] The NewsGuild-CWA, "Tribune Publishing Town Hall," March 9, 2022.

[32] The data comes from CWA's internal dues system. Nik DeCosta-Klipa, "Boston Herald lays off columnists and reporters amid coronavirus outbreak," April 3, 2020: https://www.boston.com/news/media/2020/04/03/boston-herald-lays-off-columnists-and-reporters-amid-coronavirus-outbreak

[33] Keith J. Kelly, "Cost-cutting MNG reaches deal to buy bankrupt Reading Eagle," *The New York Post*, May 23, 2019: https://nypost.com/2019/05/23/cost-cutting-mng-reaches-deal-to-buy-bankrupt-reading-eagle/

[34] Joe Nocera, "A wealthy owner opted for quality and commitment at the Reading Eagle. It didn't work," Bloomberg, October 8, 2019: https://www.bloomberg.com/opinion/articles/2019-10-08/reading-eagle-withers-along-with-local-reporting

[35] 54 "Furloughs, Layoffs at Denver Post, Other MNG Papers," *News & Tech*, April 13, 2020: https://newsandtech.com/dateline/furloughs-layoffs-at-denver-post-other-mng-papers/article_bb40d32e-7dc0-11ea-9457-ab3688aa5034.html

[36] Penelope Muse Abernathy, The Expanding News Desert," Hussman School of Journalism and Media, University of North Carolina, 2018: https://www.cislm.org/wp-content/uploads/2018/10/The-Expanding-News-Desert-10_14-Web.pdf, p. 69.

In July 2020, Alden bid unsuccessfully for the McClatchy company's assets in bankruptcy court, but revealed in its bid submission its path to cost savings: 1,000 layoffs (out of a workforce of 2,800 employees) and the repudiation of McClatchy's collective bargaining agreements with The NewsGuild-CWA.[37]

Three factors appear to be driving this employment reduction in the chains. First, many of these acquisitions are facilitated through leverage. Debt servicing puts enormous pressure on companies to reduce costs, and news is a human-capital intensive industry. The financing for the GateHouse-Gannett merger came with an annual interest rate of 11.5% from Apollo Global Management. At the time of the merger, in November 2019, the AAA-rated corporate bond rate for a similar 5-year time period was 2.21%.[38] The company has now replaced that debt with lower-interest borrowing, but the large debt remains and employees feel pressure to reduce costs. The Alden purchase of Tribune Publishing was made possible via a $218 million loan from Cerberus Capital Management.

Second, the chains use shared services to reduce headcount. Some of the shared services make sense from a practical standpoint. Certainly, combining legal, accounting, perhaps even human resources makes sense to reduce costs. However, design and layout are now being done in centralized hubs – with some overseas assistance – reducing the role of local graphic designers, copy editors, and other job titles in the newsroom. This appears to be the function of Gannett's Austin design center as well as MNG's design hubs in Boulder, CO, and Chico and Monrovia, CA, and Tribune's Design and Production Studio in Chicago. MNG has taken consolidation a step further by outsourcing jobs to the Philippines.[39] Gannett followed suit in December 2020 with its decision to outsource business-side jobs to India.[40]

Third, private equity and hedge fund investment in the news industry puts pressure on costs given their penchant for cash extraction, and three of the top five chains of local news outlets – Tribune Publishing, MediaNews Group, and McClatchy – are owned by hedge funds. A fourth chain, Gannett, was managed by a hedge fund for over 15 years. Alden is currently bidding on the fifth chain, Lee Enterprises.

[37] Both Alden and MNG have taken cost-cutting to extremes. It has refused to pay rent for many MNG offices as well as Alden headquarters. See Guelda Voien, "Alden Global Capital, Under Contract To Buy Tribune, Sued For Millions Over Unpaid Rent By Lipstick Building Landlord," Debtwire, February 26, 2021: https://www.forbes.com/sites/debtwire/2021/02/26/alden-global-capital-under-contract-to-buy-tribune-sued-for-millions-overunpaid-rent-by-lipstick-building-landlord/?sh=49c4dc955bfd

[38] U.S. Department of the Treasury, "The Treasury High Quality Market (HQM) Corporate Bond Yield Curve": https://www.treasury.gov/resource-center/economic-policy/corp-bond-yield/pages/corp-yield-bond-curve-papers.aspx

[39] Julie Reynolds, "Hedge Fund-Owned Newspaper Group Outsources Design Abroad, Chasing Higher Dividends," *The Intercept*, October 11, 2019: https://theintercept.com/2019/10/11/digital-first-media-layoffs-outsourcing/

[40] Rick Edmonds, "Gannett will outsource 485 business-side jobs to India," Poynter, December 10, 2020: https://www.poynter.org/locally/2020/gannett-will-outsource-485-business-side-jobs-to-india/

Alden takes its management fees out of newspapers. While it is challenging to specify those fees - given that both MNG and Tribune are now private - we can make an informed estimate. MNG has a wholly-owned subsidiary, Strategic Investment Opportunities LLC, that has made investments in a number of other companies - Monster Worldwide, Lee Enterprises, Alibaba, among others. As of December 31, 2021, it had $68.0 million of investments in public companies.[41] In 2019, SIO invested $261.8 million in two publicly traded companies - Fred's Inc. and legacy Gannett.[42] The capital came from MNG's profits, extracted via management and performance fees.

Until 2021, Gannett was managed by Fortress Investment Group. The hedge fund had assembled GateHouse Media news properties from its initial purchase of Liberty Media in 2005 and then acquired several hundred properties. It used a prepackaged bankruptcy in 2013 to shed debt and transfer control to a subsidiary. That subsidiary spun the company off to other shareholders, while Fortress still collected management fees. Between 2014 and 2020, GateHouse and then Gannett paid Fortress a total of $166.9 million in management and incentive fees. That amount would have paid for 318 additional journalists in the chain.[43]

As a few firms acquire more news outlets across the country, newspaper journalists have fewer competitive options. Instead of independent papers competing for their services, many journalists now depend upon the beneficence of a few powerful PE/hedge fund owners, who are extracting significant profits at the workers' expense and the community's loss of coverage.

Academic researchers have confirmed the negative employment impact of private equity. Ewens, Gupta, and Howell studied PE investment in news companies from 2001 to 2017, finding that such investment led to a statistically significant reduction in jobs and news coverage, especially in smaller papers.[44] Given that Alden was excluded from the study (while Fortress was included) because it was labeled a hedge fund, the research suggests a robust relationship between cash extraction and the loss of local news jobs. As journalism expert Penny Muse

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[41] SEC Form 13F-HR, Strategic Investment Opportunities LLC, February 14, 2022: https://www.sec.gov/Archives/edgar/data/1688150/000156761922004455/xslForm13F_X01/form13fInfoTable.xml

[42] Based on SEC Form 13F-HR, Alden Global Capital LLC, May 15, 2019: https://www.sec.gov/Archives/edgar/data/1616882/000161688219000003/xslForm13F_X01/form13fInfoTable.xml (for the value of the Gannett stake) and SEC Form 13-HR, Alden Global Capital LLC, February 14, 2017: https://www.sec.gov/Archives/edgar/data/1616882/000161688217000001/xslForm13F_X01/form13fInfoTable.xml (for the cost of the stake in Fred's)

[43] The calculations were made by The NewsGuild-CWA, based on SEC filings.

[44] Michael Ewens, Arpit Gupta, and Sabrina T. Howell, "Local Journalism under Private Equity Ownership," National Bureau of Economic Research, Working Paper 29743, February 2022: http://www.nber.org/papers/w29743

Abernathy put it, “the loss of journalists always results in a loss of journalism, as editors have to make hard decisions about which stories to cover and which to ignore.”[45]

Thus, consolidation and financialization have forced a reduction in employment. Fewer jobs means less local news is covered. Readers and the broader communities suffer from this consolidation.

The Emerging Duopoly and Theories of Harm

Behind this shrinkage in news coverage is a duopoly in daily news, consisting of the Gannett chain and Alden Global Capital, owner of both MediaNews Group and Tribune Publishing. We can delineate three candidate theories of harm: wage suppression, sky-rocketing subscription rates, and community loss.

Wage suppression. The labor market for journalists is overwhelmingly national in scope. Journalism itself is a profession in which its practitioners collect, analyze, and disseminate information. The work is generated for the public interest, although payment for that information is frequently private. Practitioners or journalists work according to a strong code of ethics that includes accuracy, balance, impartiality and truthfulness. Small and large news organizations typically request that job candidates graduate from journalism schools.

The duopoly is able to suppress wages in the local news ecosystem in at least two ways. First, wages within job advertisements are advertised at a comparatively low level. The Bureau of Labor Statistics found that the median annual salary in 2021 for the occupational category “news analysts, reporters, and journalists” (NAICS Code 511110) nationwide was $48,370.[46] In contrast, The NewsGuild found in an analysis of job ads between 2010 and 2022 - adjusted for inflation - that MNG outlets offered $44,435 on average for “news media, journalists, and reporters.”[47]

This was especially evident on a regional basis. A statistical analysis was performed on the salaries offered to job candidates at MNG news outlets. A one-sample t-test was run to determine whether the average advertised median salary for “news analysts, reporters, and journalists” occupation for the years 2016 through 2022 was different from the median annual salary for the same occupation and geographic region, (adjusted for cost-of-living increases). The mean advertised median salary, $44,435.15, was statistically significantly lower by $8,505.05 (95% CI, $12,029.68 to $4,980.43) than the average median salary for “news media,

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[45] Abernathy, “News Deserts and Ghost Newspapers: Will Local News Survive?”

[46] Bureau of Labor Statistics, “News Analysts, Reporters, and Journalists,” Occupational Outlook Handbook: https://www.bls.gov/ooh/media-and-communication/reporters-correspondents-and-broadcast-news-analysts.htm

[47] Many thanks for the research provided by Sarah E. Castillo, Statistical Consultant, University of Tennessee Knoxville, Sociology. She used the database provided by EMSI/Burning Glass Technologies.

journalists, and reporters” occupation in the same regions, \$52,940.20, $t(19) = -5.051$, $p < 0.001$.[48]

The data indicates that the advertised salaries are statistically significantly lower than the median salaries for the same occupation in the same area. The average difference is \$8,505.05; however, the difference can be anywhere between \$4,980.42 and \$12, 029.68, with a 95% confidence level. The mean difference of \$8,505.05 is equivalent to 19% of the advertised median annual salary of \$44,435.15.

The NewsGuild has found that even in collective bargaining, MNG compensation increases slowly. The union has had a bargaining relationship with 11 news outlets owned by MediaNews Group in the period between 2010 and 2022.[49] Those NewsGuild-represented employees have received one raise of 3% in the eleven years between 2011 and 2022. Meanwhile, the cost of living increased by 25%.

Second, besides depressing wages below competitive levels, this duopoly can demand more work than it could in a competitive market. The NewsGuild has found some evidence that reporters at Gannett are being asked to work unpaid overtime. A number of reporters have been labeled exempt by Gannett under the Fair Labor Standards Act, so they are not paid overtime for work in excess of 40 per week, and there is no clarity on the designations. Others have claimed they were pressured not to request overtime when finishing a story.[50] This is ongoing research, so we do not have a definitive answer to the scope of the problem.

Subscription pricing. The trend toward concentration in the newspaper industry has also harmed readers downstream, as they pay more even though they are getting less news. According to the trade publication *Editor & Publisher*, the average price of home delivery for a

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[48] The regions examined were Boston, Denver, Los Angeles, and San Francisco. These regions represent the regions of the job ads that contain salary information. The cost-of-living figures used are from the BLS, specifically the CPI-W rates, using the same regions and years of the ads. The rates were gathered for each year by region and then averaged together for an overall cost of living figure of 2.507. We obtained the Annual Mean Salary for “the “news analysts, reporters, and journalists” occupation using data from EMSI. We filtered for the four regions listed above and specifically for the “news analysts, reporters, and journalists” occupation.

[49] Denver Post, East Bay Times, Kingston Daily Freeman, Monterey Herald, Norristown Times-Herald, Pottstown Mercury, San Jose Mercury News, St. Paul Pioneer Press ,The Delaware County Times, The Macomb Daily and Daily Tribune, and The Trentonian

[50] Angela Fu, "Journalists report working hundreds of hours of unpaid overtime at Gannett papers," Poynter, September 30, 2021: https://www.poynter.org/business-work/2021/journalists-report-working-hundreds-of-hours-of-unpaid-overtime-at-gannett-papers/. See also the letter from NewsGuild President Jon Schleuss to Gannett CEO Mike Reed, September 17, 2021: https://newsguild.org/wp-content/uploads/2021/09/Gannett-Unpaid-Overtime-Letter-to-Mike-Reed-2021-0917.pdf

daily newspaper is $356 a year.[51] Granted, subscription prices might vary across the U.S. due to different costs of living. But among the chains, Alden has the strongest reputation for using its market power to significantly raise subscription prices after acquisition (while laying off journalists and disinvesting in coverage). Such pricing disproportionately affects older subscribers or subscribers without reliable broadband service who are less likely to convert to digital copy.

Through calls to circulation departments and historical data from the Alliance for Audited Media, The NewsGuild found examples of apparent price gouging at Alden-owned papers.[52] In March 2022, readers of the *Hartford Courant*, for example, paid $1,357 a year for home delivery, which represents a 403% increase from a decade earlier. The *Marin* (County*)* *Independent Journal* charges $1,297 for home delivery. The cost for the *Denver Pos*t is $988. The *East Bay Times* costs $725 a year. At the *Eureka Times-Standard*, it is $626.[53] Four of the five papers are within the MediaNews Group, the fifth (the *Courant*) is part of Tribune Publishing.

After Alden acquires papers, it dramatically increases prices. A few cases are illustrative. In Minnesota, two papers compete for daily circulation in the Twin Cities, the Alden-owned St. Paul *Pioneer Press* and the independent *Minneapolis Star-Tribune*. Alden-owned MediaNews Group (then called Digital First Media) bought the *Pioneer Press* in 2010. Since 2010, the *Pioneer Press* has raised prices for a standard annual subscription 939% while the *Star-Tribune* has raised prices 118%, a stark difference. Meanwhile, The San Jose *Mercury News* has raised prices 437% between 2011 and 2022. The Oneida (NY) *Daily Dispatch* raised its subscription prices 383% between 2011 and 2020.

A NewsGuild-represented employee at the *East Bay Times* recounted:

> I had an editor tell me once that the paper's longest subscribers are often paying the most because they are like old, non-tech-savvy people who don't know what the actual costs are and aren't interested in digital subscriptions so we lock them into these high rates and it's sort of exploitative of old people....Like, we're scamming the elderly.[54]

[51] Rob Williams, "Report: Digital Newspaper Subscriptions Will Exceed Print By 2027," Editor & Publisher, May 11, 2021: https://www.editorandpublisher.com/stories/report-digital-newspaper-subscriptions-will-exceed-print-by-2027,192933

[52] The nonprofit AAM is the industry leader in circulation audits for print and digital. Circulation data is critical for pricing advertising.

[53] Many thanks to researcher Sophia Paslaski, who called circulation departments at all Alden daily papers and mined the AAM database.

[54] The NewsGuild-CWA member requested confidentiality for fear of retribution.

Alden is not alone in extracting the maximum from “non-tech-savvy people.” At Gannett-owned *Palm Beach Post*, annual subscriptions rose from $237 in 2010 to $1,140 in 2020, almost a five-fold increase in pricing. The *Journal News* in Lower Hudson Valley, New York, increased its annual subscription from $249 in 2012 to $1,080 in 2020, a greater than four-fold price hike.

The increasing consolidation in the news industry has not led to demonstrable efficiencies for readers in terms of subscription pricing. Instead, with universally fewer employees, these outlets are producing thinner editions with less local news coverage.

Community harm. The increase in concentration in newspaper labor markets has had adverse effects on the quality of reporting for readers. But the harm does not stop with them. This quality loss can affect the entire community. The recent example of Alden’s purchase of Tribune Publishing is illustrative. We mentioned staff cuts after Alden closed the deal in May 2021. The *Chicago Tribune* no longer has a full-time transportation, college sports, or overnight police reporter (for a city of 2.7 million people), and there is no political investigative team in a city/state with a deep history of political corruption. At the *Hartford Courant* only three reporters are assigned to cover the 24 suburban municipalities. The *Orlando Sentinel* no longer has a dedicated reporter covering the police department which employs over 800 officers in a county whose population is 1.4 million people.

Three researchers from McGill University found that corporate takeovers of local news outlets result in a statistically significant decrease in local news coverage: between 2012 and 2018, the authors found a 68% decrease in local articles in *The Denver Post* (owned by MediaNews Group). They also found a large amount of shared content which tends to be national in scope.[55]

Communities suffer when news organizations shrink their coverage. With less oversight, waste and corruption can increase. Aside from the sheer numbers of jobs involved, the chains have also moved decision-making from the local news outlet to corporate headquarters. The centralized executives are less attuned to the needs of the community. The news organs then tend to have a higher percentage of wire service articles and national or regional coverage.

When chains outsource design and layout, they move up deadlines by which reporters must submit stories. Readers then cannot read about evening city council meetings or the local high school sporting events the next day. The news that happens after deadlines does get included in digital stories. Unfortunately, those are not accessed by the same population.

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[55] Benjamin LeBrun, Kaitlyn Todd, and Andrew Piper, "Buying the news: A quantitative study of the effects of corporate acquisition on local news," *New Media and Society*, March 2022: https://journals.sagepub.com/doi/full/10.1177/14614448221079030

The dramatic de-population of newsrooms - especially, but not exclusively, evident in the duopoly - frays at the fabric of communities and limits the ability of citizens to participate effectively in local politics.

Recommendations

Given the amount of employee and community harm that has resulted from news industry consolidation, The NewsGuild hopes that the FTC and the Department of Justice will vet future acquisitions and mergers for both their effects on consumers as well as their impact on other stakeholders, in particular, employees and communities.

At first blush, the effects of consolidation in the news industry should be felt in local newspaper readership and advertising markets. However, head-to-head competition in metropolitan statistical areas has diminished, first with the demise of evening papers and then with the winnowing out of daily newspapers that were financially precarious. Roughly a dozen U.S. cities still have multiple competing daily newspapers, partially due to online competition, partially due to other factors. Still, consolidation has not led to efficiencies for consumers, as readers are paying high rates for printed news with less local coverage. Price has increased while quality has decreased.

The effects of consolidation in the news industry can be felt elsewhere in the national and regional labor markets for journalists and the effects on the local communities served. Therefore, we recommend several things:

First is to restore what Congress intended, namely to halt the trend in concentration and prevent incipient harms. Section 7 of the Clayton Act was intended to reach "incipient" harms, *Brown Shoe v. United States*, 370 U.S. 294, 318 n. 32 (1962), and as the Supreme Court "ha[s] observed many times, [is] a prophylactic measure, intended primarily to arrest apprehended consequences of intercorporate relationships before those relationships could work their evil." *Brunswick Corp. v. Pueblo Bowl- O-Mat, Inc*., 429 U.S. 477, 485 (1977). Corporate concentration was the principal evil that the drafters of the Clayton Act and the 1950 Amendments sought to prevent and combat. Members of Congress treated corporate concentration as a threat to consumers, businesses, and citizens. As the Court observed, "The Committee Reports on section 7 show, as respects the Celler-Kefauver amendments in 1950, that the objective was to prevent accretions of power which 'are individually so minute as to make it difficult to use the Sherman Act test against them.'" *United States v. Aluminum Co. of Am*., 377 U.S. 271, 280, 84 S. Ct. 1283, 1289, 12 L. Ed. 2d 314 (1964) (quoting S. Rep. No. 1775, 81st Cong., 2d Sess., p. 5; U.S. Code Congressional Service 1950, p. 4297). Thus, in aligning merger policy and enforcement to Congress's intent, the DOJ challenged, and the Court enjoined, Alcoa's acquisition of Rome, which had only a tiny share of the relevant market (1.3%). To preserve an effective competitive structure, Congress sought to preserve the prototypical small, aggressive independent competitors and prevent them from being absorbed "by one of the giants." *Aluminum Co. of Am.*, 377 U.S. at 280–81.

Consequently it contravenes Congressional policy to allow the leading newspaper chains to accrete power by acquiring the remaining independent newspapers across America. We are well past the point of preventing incipient harms with the direct evidence of anticompetitive harms from these newspaper mergers (such as firing workers, depressing wages, increasing subscription fees, and degrading quality post-acquisition).

So, as a matter of merger policy, when there is direct evidence that combinations have already substantially lessened competition or tended to create a duopoly, future combinations by these leading firms should be enjoined under the antitrust laws. The agency should not have to prove how the slight accretion in power from acquiring yet another small competitor would likely cause additional harm. Harm once inflicted will likely be compounded by tolerating further accretion of their power.

Thus, in highly concentrated markets, small increases in concentration would be subject to scrutiny. A reprise of the 1968 Merger Guidelines which took the approach that power within both product and supply markets needs to be examined.[56]

Second, for every merger, the agency must consider its impact not only downstream on consumers but upstream on sellers and workers. For some media industries (such as commercial radio), the federal antitrust agencies historically examined the merger's likely impact on advertising rates. But reduced price competition for advertising and programming is not the only (or even primary) potential anticompetitive effect from a media merger. Indeed, in focusing solely on advertising markets, the agency misses many important dimensions of competition. For newspaper mergers, the agencies typically considered the impact on readers as well. But the agencies, until recently, have not considered the merger's or restraint's impact on upstream markets, including the labor markets for journalists. The news industry is showing increasing signs of monopsony in the pricing of labor. The labor market impact of consolidation should be part and parcel of any merger review. We would hope that mergers whose alleged synergies derive from their ability to reduce or degrade employment should be seriously vetted and either opposed or conditioned on job preservation and collective bargaining rights. Productive investment, rather than job cuts, should be prioritized.

Finally, as the digital economy has shown, what is readily quantifiable (like price) is not necessarily what is important (like quality, innovation, and privacy). This is especially true in the media sector, where the

[56] United States Department of Justice, "1968 Merger Guidelines": https://www.justice.gov/archives/atr/1968-merger-guidelines

harm is not only higher subscription prices but the costs of anticompetitive restraints to public discourse, transparency, and democracy.

When hedge funds and private equity acquire newspapers to extract wealth, we all lose. Corruption and waste will likely increase, as will municipal borrowing costs. Digital-only news startups have not filled this void, nor will they. Local newspapers have informed the electorate, and have held the local, state and federal governments accountable. Thus, truth and understanding are not wares like peanuts or potatoes, and the harm from lax or ineffectual merger policy in the news markets is felt not only in our wallets, but in our discourse and democracy.