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burst of display advertising and we failed to see the massive and precipitous fall-off in both classified and display that occurred this decade. When it becomes apparent that the world has been turned upside down, this complacency is invariably followed by a period of catastrophic thinking. The upside of such catastrophic thinking is that it finally prompts an industry to act; it creates a needed sense of urgency. The downside is that by continuing to measure progress against "old" world standards – the share of advertising dollars captured by print, for example -- we often fail to identify paths to renewal in the new world. And we choose instead to fight the tide -- usually futilely -- using "old" world maneuvers.

Second, creative destruction moves across an industry in waves, crippling and disabling certain segments early on, before any paths to renewal may be discernable. Invariably, the segments that suffer first and longest are those that are the "youngest" – the last to arrive on the scene. While I applaud the FTC for taking a "kitchen sink" approach in attempting to get all proposals to "reinvent" journalism on the table, I worry that we may fail to prioritize the proposals, and thus fail also to practice triage where it is needed most. Very specifically, I worry that we are facing an imminent and perhaps prolonged "market failure" at the state and regional level of investigative and analytical reporting. This sort of "Pulitzer Prize-winning public service" reporting effort by large city newspapers and by state newspapers such as The Charlotte Observer and the Raleigh News and Observer in my home state of North Carolina, was relatively rare prior to the 1970s. Over the last three decades it has informed public policy debate not just on the regional level – vitally important in this inter-connected digital age – but also at the national and local levels. You may disagree with me as to where the threat is most imminent, but I do hope that as we assess these proposals, we ask this question: Does this proposal help the segment of the industry that is in most immediate peril?

Let me briefly elaborate on both observations and explain why, from a purely business perspective, I fail to be enthusiastic about either the copyright or anti-trust proposals, and their potential to either "hold back the inevitable tide" or "reinvent" journalism. In fact, I think they could divert us from that "reinvention."

On Measuring the Wrong Thing:

Our panic over the recent precipitous decline in print advertising is driven by our unspoken belief in a theory that Charles Scripps is credited with first articulating. In 1965, he observed that, despite the introduction of radio and television, the amount of money devoted to advertising appeared to remain "relatively constant" over time -- roughly two percent of GDP. This became known as the "theory of relative constancy" in academic circles and a number studies in the 1970s confirmed that, indeed, this relationship had held from the 1920s to the then-present-day. In the 1980s, the business world – primarily ad agencies and investment banking firms – took over from the academics and began measuring advertising expenditures across more than a dozen categories (from billboards to magazines, and more recently, search and on-line).

organization that is not too dissimilar to previous business models, with a significant portion of the revenue and profits still coming from "advertising." Only in this iteration, it comes from the growing segment of "nontraditional" interactive advertising spawned by the digital age.

I worry that in a rush to "protect" and exact payment from the aggregators by strengthening copyright law and advocating anti-trust exemptions, we – traditional news media -- get diverted from the task at hand, reinventing the business model. Meanwhile, the evolution of the digital world keeps on rolling along – progressing, as it has over the last 20 years, from portal to e-commerce to search to social networking and whatever the next iteration – all the while nurturing new categories of revenue that we could potentially tap.

On Practicing Triage

Which brings me to the second point: We need to prioritize among these various proposals, looking first at those that benefit news organizations facing the most peril. The two segments of our industry best positioned both to tap into this new pool of "nontraditional" advertising revenue, as well charge a licensing or subscription fee for some proprietary information, are our largest news organizations – the national newspaper – and the smallest – the small to mid-sized dailies and weeklies.

This leaves the state and regional newspapers, which have served a very vital role in the latter part of the 20th century in both identifying and investigating region-wide public policy issues, betwixt and between – too large to attract a substantial share of a mom-and-pop's nontraditional ad budget and too small for the national brands.

In North Carolina, between 1981 and 1996, The Charlotte Observer, the state's largest newspaper, won two Pulitzer Public Service Awards and The News & Observer, the second largest, won one. The N&O was cited for its investigation of waste disposal at the state's growing hog farm industry. One of Charlotte's two awards was for an investigation of brown lung in the state's textile industry. Both series led to reform at both the state, local and regional level – and both pieces were funded by newsrooms that had the "luxury" of detaching experienced reporters from day-to-day reporting duties for several months.

Over the last two years, the news department staffs of these two papers -- both owned by McClatchy, which is attempting to pay down the debt it incurred purchasing Knight Ridder -- have been cut 25% each in three rounds of lay-offs. We, at UNC, are hoping to do a statewide audit of traditional news organizations (newspapers and television) to determine exactly what effect the layoffs have had on specific categories of reporting – such as environment, health care and education – where trend and investigative reporting directly influence public policy. But it is safe to assume – with a 25% reduction in staffing – neither newsroom has the luxury of pursuing as many investigations as in the past – nor do the reporters have the luxury of pausing from deadline to ponder the context and subtleties of certain conflicting data that might lead to a months-long investigation with unknown results.

I do not see that either of the legal remedies we're discussing on this panel would change the long-term prognosis and marketplace dynamics for state and regional news organizations. And since we may be looking at an extended period of market failure in this segment, I hope that in our discussions today, we can agree, first, that this is the most imperiled segment and, then, look at the other proposals with an eye for what they might do to "fill the gap."

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In closing, because I bring a business – not a legal – mind to the questions at hand, I did consult with colleagues at three different universities with expertise in internet law and intellectual property rights. While these colleagues can offer much more salient legal arguments – pro and con for these two broad proposals – all three cautioned that in pursuing these, we may be flying in the face of economic reality.

One asked pointedly, "What did we learn from watching the music industry go down the same path?"

Thank you.