



SB 107

Energy & Technology Committee  
Connecticut General Assembly

Testimony of  
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Co-Chair Bob Duff, Co-Chair Lonnie Reed, Vice Chair Gary D. LeBeau, Vice Chair Jonathan Steinberg, Ranking Member Clark J. Chapin, Ranking Member Laura R. Hoydick, and members of the Energy & Technology Committee; thank you for the opportunity to provide testimony.

My name is Wesley K. Young and I am Vice President of Public Affairs for the Local Search Association (LSA) which was formerly known as the Yellow Pages Association. We are the largest trade organization of print, digital, mobile and social media that helps local businesses get found and selected by ready-to-buy consumers.

### **Summary**

For more than seventy-five years, the United States Supreme Court has struck down laws that attempted to ban or severely limit the door-to-door distribution of written materials as violating the First Amendment. Yellow Pages directories, which the bill singles out, are fully protected speech under the First Amendment.

Yellow Pages directories help support local businesses, are used frequently by consumers, and have a negligible environmental impact. Nevertheless, the industry recognizes there is no benefit to delivering a print directory to someone who does not want one, so we actively promote our successful self-regulatory consumer choice measures, described below, that reduce the number of unwanted directories.

Print Yellow Pages directories are also often an important source of information both before and after public emergencies such as natural disasters. They are a reliable source for preparedness and recovery information, require no power source, and provide valuable contact information for needed services.

Because SB 107 is both unconstitutional and bad policy that hampers the ability of local businesses to be found by customers, the Local Search Association opposes SB 107.

### **Federal court decisions**

In 1939, the Supreme Court struck down a New Jersey law that required a permit before a person could “distribute circulars or other matter, or call from house to house.”<sup>1</sup> Four years later, the Supreme Court struck down a ban on door-to-door distribution of literature, explaining that it violated the First Amendment rights of both the distributor and the homeowner.

The ordinance does not control anything but the distribution of literature, and, in that respect, it substitutes the judgment of the community for the judgment of the individual householder. It submits the distributor to criminal punishment for annoying the person on whom he calls, even though the recipient of the literature distributed is, in fact, glad to receive it.<sup>2</sup> 319 US at 143-144.

There is no doubt that Yellow Pages directories are “fully protected speech” under the First Amendment and entitled to the same protection as newspapers, magazines and other media. In Dex Media v City of Seattle, 696 F 3<sup>rd</sup> 692 (9<sup>th</sup> Cir. 2012), *rehearing and rehearing en banc denied*, a unanimous U.S. Court of Appeals struck down a Seattle ordinance that restricted Yellow Pages distribution by requiring a government-run “opt-out” system. The Court found

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<sup>1</sup> *Schneider v New Jersey*, 308 US 147 (1939).

<sup>2</sup> *Struther v. Martin*, 319 US 141, 143-144 (1943).

that there was no “principled reason to treat telephone directories differently from newspapers, magazines, television programs, radio shows and similar media.”

As fully protected speech, restrictions on delivery are subject to strict scrutiny by the courts – a standard that rarely, if ever, can be met.

Even if the state could somehow justify a ban on door-to-door distribution of literature, it cannot single out one type of publication for disparate treatment.

A mandate to deliver directories through the U.S. Postal Service by first class mail would impose an operational and financial burden even greater than the Seattle ordinance. In fact, it is not clear that all Yellow Pages directories can even lawfully be sent via 1<sup>st</sup> Class mail because of weight and size limitations.

### **Print Yellow Pages Usage**

There are many misperceptions about the relevance of print Yellow Pages. Yet, sixty percent (60%) of adults still use print Yellow Pages directories to find local businesses<sup>3</sup>. Many small businesses themselves have not yet made the switch to be online as more than 50% of them do not have a website<sup>4</sup>. Small businesses on average spend only 3-16% of their advertising budget for online ads<sup>5</sup> and half of small businesses have inaccurate online business listings<sup>6</sup>. So, keeping print directories in the hands of consumers who use them truly helps the local businesses of Connecticut.

Yellow Pages companies today are multi-platform providers with a full spectrum of advertising solutions including online, mobile, SEO, social media and other innovative products with approximately \$2 billion in digital revenue nationally. But, the market continues to demand print solutions because they are still effective in driving business to advertisers. 61% of print Yellow Pages searches result in a contact or visit to a local business, and 74% result in a purchase or intent to purchase<sup>7</sup>. When combined with other online advertising such as social media, online coupons or online reviews, the print Yellow Pages boosts monthly media reach by 26%<sup>8</sup>.

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<sup>3</sup> Burke, Inc. – Local Media Tracking Study 2012 for Local Search Association (July 2, 2013)

<sup>4</sup> Yodle, Inc. – Small Business Sentiment Survey (August 2013)

<sup>5</sup> Boston Consulting Group survey (March 19, 2013); also citing BIA/Kelsey

<sup>6</sup> ContantContact’s SinglePlatform division survey (February 8, 2013)

<sup>7</sup> Burke, Inc. – Local Media Tracking Study 2012 for Local Search Association (July 2, 2013)

<sup>8</sup> Id.

## Sustainability

The environmental impact of print Yellow Pages directories is likewise misunderstood. Publishers of print directories have been leading an effort to produce a welcome and sustainable product. Paper usage decreased 58 percent between 2007 and 2012, and was projected to reach more than 60 percent by the end of 2013<sup>9</sup>. This environmental accomplishment is based on a reduction in the overall sizes of directories, a reduction in the number of titles, more efficient manufacturing, a reduction in White Pages deliveries, and citizens opting out of directory delivery through the industry run opt-out site, [YellowPagesOptOut.com](http://YellowPagesOptOut.com).

Our publishers support recycling programs and educate recycling facilities into accepting phone directories in curbside recycling bins to minimize the impact on municipal waste streams. In its most recent municipal solid waste report, the U.S. Environmental Protection Agency (EPA) reported that the recycling rate for the paper category including phone directories was 72.5%, one of the highest rates for all products tracked.

The combined result of these efforts has led to phone directories having an immaterial impact on municipal waste. In its 2009 Municipal Solid Waste Report, the EPA estimated that directories made up less than 0.3% of the municipal solid waste stream. By 2010, EPA stopped measuring directories separately, instead combining them with newspapers.

The Yellow Pages industry uses sustainable processes for our products. Publishers use paper made largely from leftover woodchips and other byproducts of the lumber industry, and some also include recycled content from newspapers, old directories, and other paper-based products. Also, Yellow Pages directories are printed with vegetable-based ink that poses no danger to ground water and are bound with adhesives that are non-toxic.

Of course, we recognize that all forms of communication have a carbon footprint. Electronic search tools are often touted as an environmentally friendly alternative to print search tools such as Yellow Pages, but when the total environmental impact is measured, print matches up well against e-communications and, by some measures, is even more environmentally friendly than the Internet.<sup>10</sup>

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<sup>9</sup> Pulp and Paper Products Council

<sup>10</sup> In a September 22, 2012 New York Times article by James Glantz entitled "Power, Pollution and the Internet," a yearlong look at the carbon footprint of Internet-based search showed that data centers use an enormous amount of energy and produce a problematic amount of emissions. In addition, according to the EPA, only 20 percent of all electronic search devices were recycled in 2010 compared to the 71.6 percent of newsprint that was recycled in the

## Consumer Choice

Yellow Pages publishers have nothing to gain by delivering unwanted directories. That is why the major publishers in Connecticut and throughout the United States broadly promote the availability of the industry's opt out program. For example, LSA partnered with YP and Yellowbook to exhibit at the 31<sup>st</sup> annual convention of the Connecticut Conference of Municipalities in October of 2013 held in downtown Hartford. There we talked to many city council members and city staff from towns across the state, and asked them to help us promote the opt-out site to their residents. We already have plans to exhibit here again in 2014. Further, the front covers of directories themselves prominently let residents and businesses know about [YellowPagesOptOut.com](http://YellowPagesOptOut.com). In many cases, the disclaimer is a prominent green box that may look like the following:

To stop delivery of future directories visit  
[www.yellowpagesoptout.com](http://www.yellowpagesoptout.com).

When consumers use this website to customize their household delivery, publishers benefit by ensuring only those directories that will be welcome in homes and businesses are delivered, reducing the environmental impact of unwanted directories. The website is free and information provided by consumers is not shared with anyone other than directory publishers for the purpose of updating distribution lists.

[YellowPagesOptOut.com](http://YellowPagesOptOut.com) includes participation of more than 160 publishers representing almost all of the Yellow Pages industry. A key to the success of this website is that it is an easy to use 'one-stop shop' where the user can either choose which directories are delivered or stop delivery altogether. Especially since many people are unaware that there are various Yellow Pages publishers, it is very helpful to have a singular location to make delivery choices.

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same time period. As such, when considering the broader carbon footprint of communication, print directories are very competitive especially when the industry takes a proactive role in adopting sustainable practices.

## **Conclusion**

Print Yellow Pages directories are environmentally sustainable products. But if SB 107 passed, it would cause unnecessary and unconstitutional hardship to both Yellow Pages publishers and local Connecticut small businesses that rely on Yellow Pages to bring in customers.

While the way in which people search for information has certainly changed, many people continue to rely on print directories for everyday commerce, finding local businesses, making purchase decisions, and obtaining community and visitor information. Print directories are also an integral part of disseminating needed emergency information to residents and visitors, and homeland security personnel frequently advise residents to look to the book for important information

The Yellow Pages industry wants to continue being an effective partner with the State of Connecticut, both in meeting its environmental needs as well as boosting its economy by supporting local businesses. Our members have demonstrated their commitment and ability to do so. We would respectfully ask that in lieu of passing SB 107 that you enable the Local Search Association and its member publishers to continue working with you and other lawmakers to address your needs on a self-regulatory basis.

Thank you for your consideration.