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A Replanting Strategy

Hundreds of newspapers are languishing in the hands of hedge funds and chains.
It's time to replant them with community nonprofit groups and mission-driven owners

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Introduction

The conversation about the crisis in local news has tended to focus on two solutions: helping create local news startups and supporting local newspapers still in existence. Each approach has limitations and promise. Birthing nonprofit news organizations is critically important and valuable, but so far there are far too few (around 300), and their scale is small. Congress, on the other hand, has so far focused on helping existing newspapers as they often are the only source of information in a community. But as a long-term strategy that is misguided. These newspapers suffer not only from broken business models but from ownership structures that make it nearly impossible for them to endure or serve their communities well. More than 1,000 newspapers today are owned by hedge funds or private equity firms, accounting for more than half of the daily newspaper circulation in the country. They cannot and will not guide newspapers to a better future. And the problems are about to get worse: The economic decline caused by COVID-19 will accelerate local newspaper bankruptcies and consolidation. This next tidal wave will swamp not only papers owned by private equity funds but also well-intentioned family-owned chains.

It's time to ask another question: Could some of the 6,700 privately owned newspapers be transformed into more community-grounded institutions? Just as sickly plants can sometimes gain new life by being watered and repotted in healthier soil, could changing their ownership structures and sources of nourishment revive some dying newspapers?

We need an ambitious strategy to replant for-profit newspapers into local nonprofit organizations and Public Benefit Corporations.

This strategy has two components.

First, there needs to be a new private, nonprofit "replanting fund" that would actively work to replant these newspapers into new structures. The Fund would identify newspapers that would be prime candidates (based on factors such as print and digital subscribers, social following, and reputation); assess community organizations that might host them (based on need, community support, financing, equity goals, and leadership); and provide support services (legal representation, technology, and operating capital) to help them succeed. This might include not only newspapers held by financial institutions but also family-owned papers that have heroically tried to serve their communities but are out of time and money.

Second, we need public policy changes to make replanting more likely and to curb the deleterious effects of local news consolidation in general. These policies would provide incentives for chains to donate newspapers to the communities they serve instead of closing them, while tightening antitrust law to discourage excessive consolidation. The goal would be to replant 200 newspapers within three years, helping to fill news deserts and build a truly inclusive media ecosystem. A plant facing death while rooted in parched or toxic earth can thrive when put in a healthier environment.

Note: This is not a comprehensive paper on everything that needs to be done to help local media. Future local news ecosystems must include a much enlarged nonprofit sector, a revitalized commercial sector more focused on local ownership, nonprofit-commercial hybrids, and assistance from the government. This paper focuses on just one piece of the puzzle: what to do with legacy newspapers, not because it's the only piece, or even necessarily the most important, but rather because it's one that hasn't been well explored.

The True Nature of the Crisis

Even before COVID-19, the local media system was a strong breeze away from collapsing. A hurricane is now blowing through the local news landscape. Before COVID-19, the number of journalists had dropped by 60% since 2004, a contraction on par with the collapse of the coal and steel industries.[1] One in five newspapers had shut.[2] Since COVID began, another 36,000 newspaper employees have been laid off, furloughed, or had their pay cut.[3] Many ethnic publications are on the edge of closing. This depression undermines the only industry mentioned in the Bill of Rights – one that is essential for the functioning of democracy. Studies have shown that the decline of local news is associated with higher polarization, lighter voter turnout, less cross-party voting, more corruption, and more government waste.[4] In addition, the vacuum has been increasingly filled by partisan political sites masquerading as independent local news sites, further exacerbating polarization.[5] Communities do not have the information they need to solve their own problems.

There is a misconception that news organizations collapsed because they lost readers to the internet. The key is, rather, that they have lost advertisers to new platforms. Facebook and Google now control 70% of local digital advertising, leaving less and less behind for newspapers and other content creators to live on.[6] From 2008 to 2018, newspaper revenue dropped from $37.8 billion to $14.3 billion.[7] Little of that has been replaced by advertising with local digital startups.

Some important countertrends exist. Many national media organizations adjusted and are now doing quite well financially and journalistically. *The New York Times* had 1.1 million paid subscribers in 2000.[8] In May of 2020 it had 5.8 million paid print subscriptions (print and digital) as well as 240 million unique visitors. Cable news is doing well, too.[9] The *Times* and *Washington Post* have been survived by significantly increasing their audience size – becoming national and global publications – partly through great journalism and partly through technological improvements. Both papers are able to use that reach to achieve economies of scale sufficient to offset the revenues they are losing to Google and Facebook.

But local newspapers do not have the option of reaching that kind of scale. There are only so many people who will want to hear about last night's meeting of the Tulsa school board. That is why the crisis is so acute for local media – and why there is little hope that new commercial models will emerge that could support journalism on the scale locally that they did a decade earlier or ones that communities deserve.

In short, under current market structures, local journalism has become what economists call a public good, meaning that while it provides a civically essential service, businesses can't make money providing it.

Over time, newspaper consolidation has compounded these problems. Newspapers had been losing audience to TV and radio since the 1940s. Newspaper circulation was about the same in 1940 (41 million) as it was in 2009 – even though the country's population had grown by an extra 174 million. In response, the industry consolidated. In 1940, 83% of newspapers were independently owned; by 2000, just 23% were.[10] Eventually, most towns ended up with only one newspaper. Paradoxically, the remaining newspapers financially did better and better because they became monopolies. They could maintain impressive profit margins, some of which was invested into local journalism. This combination – high profit margins and local monopolies – led to a big wave of consolidations toward the end of the 20th century. By 2004, these mergers – often financed by loans – meant that just three companies (Gannett, Journal Register, and Media News Group) owned 425 newspapers. When digital powerhouses began taking away most of the newspaper advertising revenue, these companies were particularly vulnerable.

That's when private equity firms and hedge funds, some of which had become passive investors during the first wave of newspaper mergers, acquired chains. Most did not necessarily see a rosy future for newspapers but believed that by creating massive cost savings, they could keep the newspapers cash-flow positive and make good profits for the firm. Some 1,102 newspapers were owned or controlled by a handful of hedge funds in 2018, according to UNC data.[11] More than half of the newspaper circulation in America was from publications owned by financial institutions.[12]

Largest 24 Owners in 2020 Ranked by Number of Papers Owned

Owner Type: Public/Investment **Investment** **Private**

Rank	Owner Name	Total Papers	Daily Papers	Total Circ. (000s)
1	Gannett/Gatehouse	613	262	8,596
2	Digital First/Tribune	207	70	5,163
3	Lee/BH Media	170	84	2,464
4	Adams Publishing Group	158	40	1,233
5	CNHI	112	71	993
6	Ogden Newspapers	84	49	851
7	Paxton Media Group	75	42	575
8	Boone Newspapers	65	29	458
9	Community Media Group	57	14	331
10	Landmark Media Enterprises	55	3	443
11	Hearst Corporation	51	22	1,296
12	McClatchy	47	30	1,747
13	Aim Media	46	26	405
14	News Media Corporation	43	3	183
15	Black Press Group	42	10	777
16	Rust Communications	41	17	239
17	Advance Publications	41	16	1,545
18	Shaw Media	39	10	269
19	Horizon Publications	37	23	162
20	Forum Communications	35	10	276
21	Morris Multimedia	30	3	205
22	Trib Publications	29		91
23	Sample Media Group	27	16	163
24	Wick Communications	26	10	154
25	Community Newspapers Inc. (CNI)	26	3	170

Source: The Expanding News Desert, UNC

The disinvestment strategy devastated many local newsrooms. Penny Abernathy runs the comprehensive study of local "news deserts" for the University of North Carolina at Chapel Hill's school of journalism. She wrote: "The standard operating formula often included aggressive cost-cutting … the sale or shuttering of under-performing newspapers, and financial restructuring, including bankruptcy. At the most extreme, their strategies have led to the closure of hundreds of local papers and diminished the important civic role of newspapers."[13] From 2004 to 2018, some 1,749 weeklies and 62 U.S. dailies closed as a result of mergers, according to UNC data.[14]

Other communities were saddled with "ghost newspapers" – local newspapers that have been so stripped of local journalists that they barely cover their communities. Duke University professor Phil Napoli studied 100 communities that ostensibly had local newspapers and found that only 17% of the news pieces were local.[15] Another measure of the decline in local coverage: in the 1990s, the best journalism – as measured by the top journalism awards – was often produced by local and regional newspapers. Now, the awards are scooped up by a handful of the largest. In the 1990s, the five biggest papers won less than one-third of the awards; in 2013, they won more than half.[16]

Crucially, more than a thousand of these local newspapers are not just struggling – they are trapped. They cannot invest sensibly in strategies for survival because of the restraints of being in a hedge-fund-owned chain. The hedge funds are not focused on long-term growth but rather short-term cash flow, maximized most rapidly by cutting costs. Ken Doctor, the leading analyst of the economics of local news media, described how it was that Alden Capital, one of the largest owners of newspapers, managed to make so much money while the whole industry was in decline.[17] In 2017, Alden's Digital First Media had produced a 17% operating margin, and a profit of $160 million. Perhaps some of that profit could have been invested to grow digital subscriptions.

Digital First Media Results FY 2017, Ended June 30, 2017

Ranked by profit contribution

REGION	FY 2017 REVENUE	FY 2017 EXPENSES	PROFIT	MARGIN
Bay Area	194,000,000	153,000,000	41,000,000	21%
Colorado	187,000,000	151,000,000	36,000,000	19%
Southern CA	270,000,000	247,000,000	23,000,000	8%
Philadelphia	61,000,000	43,000,000	18,000,000	30%
Northern CA	51,000,000	40,000,000	11,000,000	21%
St. Paul	76,000,000	66,000,000	10,000,000	13%
Michigan	45,000,000	38,000,000	7,000,000	15%
Ohio	22,000,000	16,000,000	6,000,000	27%
Massachusetts	19,000,000	14,000,000	5,000,000	26%
New York	14,000,000	12,000,000	2,000,000	14%
TOTALS	**939,000,000**	**780,000,000**	**159,000,000**	**17%**

Source: Nieman Lab

The profit margin for Alden's Colorado's papers that year was $36 million. Yet look at this photo of the staff of the *Denver Post*, taken in 2013 after winning the Pulitzer Prize for local journalism for its coverage of the Aurora mass shooting. The blacked-out silhouettes are journalists who no longer worked at the paper as of April 2018.

Source: Denver Post

Newspapers that are part of chains that are still owned by shareholders or private firms often face some of the same pressures, albeit less intense, as those owned by financial institutions. The publicly traded companies need to provide impressive quarterly earnings. When Warren Buffett, previously a self-described "newspaper addict," decided to sell his newspapers, it was a sign that the industry was doomed. Yet the newspaper chain generated a 12% EBITDA, enough to invest $47 million back into the newspapers, but not enough to satisfy a high-expectation investor.[18] These pressures don't only lead to less reporting; they sometimes deter investment that will have longer-term payoffs. At a time when many family-owned papers are investing in growing their digital subscriptions – the *Los Angeles Times* digital subscriptions rose 58% from June to December 2019 – many newspapers have so eroded their product that asking people to pay for it has become harder.

Many rural weeklies are in a slightly different situation. Many are still breaking even or profitable. But they are, according to Jim Iovino of the NewStart project, "at the end of their life cycle." By that he means, first, that the newspapers are still profitable because broadband hasn't penetrated the community and the full digital disruption hasn't happened. So while they make money now, they also know it is just a matter of time before they, too, will go underwater. Second, the owners are nearing retirement age, and the children don't want to take the helm. NewStart, a project of West Virginia University, is training editors and businesspeople to take over rural newspapers, which still have significant value (and don't cost much to acquire). This is also a pattern in other weeklies, including many Black and ethnic newspapers; some 27% of news organizations led by people of color are family owned, according to a study by the Borealis' Racial Equity in Journalism Fund.

The situation is likely to get worse. COVID-19 has devastated local newspapers – cutting print ad revenue by more than half, by some estimates. More mergers are likely. More newspapers will end up owned by either private equity funds or struggling chains. Among those likely to go underwater are family-owned weeklies, including many ethnic newspapers. The local news system will manage to get even less competent, less inclusive, and less diverse.

Yet despite their problems, in most communities, legacy newspaper still have the most reporters, the largest circulation, the strongest brand, the most advertisers, and even the most revenue. I'm not arguing that those newspapers should be saved as is, and in other venues I've pushed hard for exponentially more resources for new local nonprofit news organizations. But a meaningful number of the 6,700 newspapers have significant *civic* value – built up over decades, and of the sort that would take considerable time and money to replicate via a new venture, if that were possible at all. Until now, we have assumed that our options were: allow ghost newspapers to proliferate, accept news deserts, or build brand new media organizations. There is another option to consider as part of the mix: moving newspapers into organizational and financial structures that would enable them to better serve their communities.

Strategies So Far

When the digital disruption first hit, many news leaders figured that the economic challenges were temporary. The dying old models would quickly be replaced by something better, driven by innovative new technologies. But a decade later it's become clear that while the new technologies have helped national media, they have left local media even worse off.

Revival efforts now focus on a few areas. Some commercial media have focused on a dramatic shift from a revenue model mostly dependent on advertising to one that relies more on subscriptions. That has worked nationally and, in some cases, on the local level. For example, the *Boston Globe* now has about enough digital subscription revenue to pay for its entire newsroom. But while these efforts might help make some local news organizations survive, most will not be sustainable at a level in which they can provide robust accountability journalism, especially in lower-income areas.[19] For one thing, many local newspapers are now competing against the *New York Times* among residents, who, on average, only subscribe to one paper.[20] What's more, only 17% of Americans pay for news content.

Recognition is spreading that the nonprofit sector will need to be a much bigger part of local news ecosystems. Since 2000, more than 300 new digital-first nonprofit local news websites have been created, mostly not affiliated with the existing public broadcasting system. Philanthropy has increased its commitment from $123 million in 2009 to $370 million in 2018 (though that amount dropped in 2019).[21] Studies show that nonprofit news organizations devote a far higher percentage of their budgets to journalism than commercial entities do.[22] Two-thirds of their expenses go to editorial operations compared to 15% to 20% at a traditional legacy newspaper. That may be largely because most of them are digital-only, and don't have printing and delivery operations to sustain.

This new world of digital-first nonprofit journalism includes statewide watchdog groups like the Wisconsin Center for Investigative Journalism, CalMatters, and Pine Tree Watch; community websites like East Lansing Info and El Paso Matters; and a new generation of news organizations focused on communities of color, such as Flint Beat, MLK50, and the Sahan Journal.

Some for-profit entities are increasingly adding charitable donations to their income repertoire, creating a stronger foundation for sustainability.[23] At the McClatchy newspaper chain some 50 to 60 reporting positions are partly or wholly supported by philanthropy. Report for America, an initiative of the nonprofit journalism organization The GroundTruth Project, puts subsidized reporters into local newsrooms – and attracted more than 8,000 donations to those local news organizations in 2020. But there's a limit to how much philanthropic money will go to chain newspapers, especially those that need to produce 20% margins for private equity firms or shareholders. Meanwhile, local TV stations have been doing much better, but most have not used this period of relative economic health to invest in deep original reporting.

But so far, the philanthropic investment has been a small fraction of what would be needed to fill the gap,[24] roughly $1 billion to $2 billion per year, about three to four times what foundations currently provide. In 2019, only one-third of the 300 nonprofits had taken in at least $1 million in revenue. In a study of newsrooms led by people of color, only 37% reported income of more than $100,000. A chilling point of reference: There are now more new partisan local news sites (masquerading as independent journalistic outfits) than there are new independent nonprofits.[25] There are too few independent, nonprofit local news outlets, and those that exist are too small and frail.

Some public radio stations are working hard to be part of the solution. They have long proven that nonprofit media can be sustainable and supported by the community. In recent years, more and more have increased their commitment to local reporting, especially in larger cities. In some cases, they have done this by acquiring digital-first local news websites. In New York, WNYC, a public radio station, took over the management of Gothamist, an excellent local news site; KPCC in Pasadena, California, absorbed the LAist; WAMU took over DCist; Colorado Public Media acquired the Denverite; and New Jersey Public Media merged with NJ Spotlight. But there are limits on how much the Corporation for Public Broadcasting can help. The agency is required by law to put the majority of their subsidies toward public television, which is less likely to produce local journalism. With a limited budget, a dramatic increase for local news would come out of cultural or educational programs, which have been important factors in maintaining political support for public broadcasting. So while public radio stations in some cities can play a bigger role, they are unlikely to replace most of the 2,000 newspapers that have disappeared. In addition, there is an equity issue: the audiences have tended to be affluent and well educated.[26]

Some newspapers have been saved and revived by a "benevolent billionaire." The *Minneapolis Star Tribune*, *Los Angeles Times*, *Boston Globe*, and *Berkshire Eagle* were bought by wealthy individuals in recent years. In each case, they slowed the pace of layoffs and invested in journalism, and pushed to generate more digital subscriptions.[27] They are not attempting to accumulate papers around the country for greater financial gain. Indeed, even though these are private businesses, they operate partly according to nonprofit or civic principles.

Although those cases get the most attention, there are quite a few family-owned newspapers that have survived and made progress in transitioning to a more subscription-based, digital-friendly model. *The Seattle Times*, for instance, has been owned by the Blethen family since 1896. They were hit by the same underlying challenges as other newspapers, but because they didn't have to ship off profits to a hedge fund or to shareholders. The Blethens have done better, although it's unclear whether that extra flexibility will be sufficient to help them survive the storm. *The Minneapolis Star Tribune* also appeared to be break-even before COVID hit.

More recently, there have been a few notable examples of a different model – for-profit newspapers converting to nonprofit status. In 2016, Gerald Lenfest donated the *Philadelphia Inquirer* to a newly created nonprofit organization called the Lenfest Institute.[28] In 2019, the owner of the *Salt Lake Tribune*, Paul Huntsman, donated the assets (but not the liabilities) to a newly created nonprofit.[29] Nelson Poynter, the owner of the *St. Petersburg Times*, decreed that upon his death (which turned out to be in 1978) the paper would be donated to a trust called the Modern Media Institute, subsequently renamed the Poynter Institute. It would be hard to say that these newspapers are doing well exactly, as all local newsrooms have been devastated by COVID-19, but their new structure has given them more flexibility in dealing with the crisis than the chain newspapers. The *Philadelphia Inquirer,* a Public Benefit Corporation that was donated to a nonprofit entity, has raised over $25 million to support its efforts. As a result, its reporting staff of 230 is more than any of the local nonprofit startups. Because the *Inquirer*'s goal was to break even, not generate a 20% profit, they have laid off fewer people and invested more in news, product, and digital capabilities. The *Salt Lake Tribune* was, before COVID-19, on a path toward sustainability within two years. It is no coincidence that the three papers in Philadelphia, Salt Lake City, and Tampa Bay – all family-owned and then donated to a nonprofit – have each been finalists or winners of the Pulitzer Prize for local reporting since 2016.

One important lesson from these efforts is that while there are real impediments to local news organizations becoming massively profitable and lucrative corporations, they *can* become self-sufficient and extremely valuable contributors to their communities *under certain conditions*.

Those conditions include:

• not being laden with debt-servicing obligations, excessive pension liabilities, or long-term printing contracts.

• having freedom to invest any surplus back into reporting and digital product development (instead of producing double-digit profit margins for shareholders.

• having the ability to enlist the community itself in providing support through donations.

• having leadership committed to both digital transformation and service to the community.

• having the flexibility to come up with the right balance of digital and print distribution (with many models eventually shifting away from daily print publication).

The civic benefits of these models for the community are impressive, at least in journalistic terms. Of the 31 finalists and winners for the Pulitzer Prize in local reporting, 64% were either by nonprofit news organizations or family-owned newspapers. Penny Abernathy, the foremost scholar of news deserts, says she believes that for-profit newspapers can often survive if the communities have average or growing economies or populations – and, significantly, "if you have local authority," meaning that a community-based ownership makes the controlling decisions.

More recently, there has been a growing belief that the government must help local news. Ambitious proposals have been offered by Free Press, the Newspaper Guild, the News Media Alliance, and the *Seattle Times*. A group that I have been leading, called the Rebuild Local News coalition, has offered a multifaceted plan, which we estimate would more than double the number of local reporters. These ideas are discussed briefly later in this paper. But there are great risks to increasing the government's role if done the wrong way. Having the federal government provide direct discretionary funding for local news organizations could threaten editorial independence. It's hard to be a muckraker if you're taking money from the muck-maker. Given how President Trump has politicized the management of Voice of America, one has to assume that a Department of Local News would be problematic if not structured as an independent agency.

Government interventions also sometimes have the unintended (or sometimes intended) consequence of propping up the legacy players to the detriment of newcomers. During debates over COVID-19 relief, the one step that the House of Representatives took to help local news was to change the law so that large newspaper chains could be eligible for the Payroll Protection Program. These steps have some short-term logic – a quick way to stanch the hemorrhaging of jobs – but do little to avoid catastrophe 12 months out, and even less to create a better local news system for the future.

Replanting

We are not suggesting that if only newspapers could be rid of heartless management, they could thrive as wildly profitable businesses. Rather, we believe that if liberated and converted to an entirely new ownership structure, hundreds of them could be sustainable organizations that could provide tremendous civic value to their communities, either as nonprofits or locally owned for-profits. Some would be transformed from institutions that serve our democracy as an incidental by product of their profit goals to organizations primarily focused on providing a public good rather than a private profit.

The strategy has two essential elements:

1) the creation of a private, nonprofit Fund that would facilitate these transformations and

2) changes in public policy to provide incentives for chains to donate newspapers and slow harmful newspaper consolidations.

Currently, when evaluating newspapers among their holdings, a private equity firm or newspaper chain has two financial options: milk them or close them.

We want them to choose a third path: donate them.

THE REPLANTING FUND

We need to create a new nonprofit organizational structure that would have as its mission the conversion of newspapers into durable, local news organizations that provide communities the news and journalism that they need. The measure of success would not be providing investors with a return on investment but rather providing civic value to communities. If traditional private equity firms seek the highest possible return on investment (ROI), this Fund would seek what might be called civic return on investment (CROI). These are the investments in which a dollar invested provides civically important local journalism that is sustainable and rooted in its community.

There are several strategies to consider:

Donation or sale of a newspaper to a newly created nonprofit organization. Stakeholders in a community could join together to create a new entity. Perhaps this would be driven and financed initially by one of the 750 community or place-based foundations in the country. In Michigan, the Chaldean Community Foundation purchased the local newspaper, the Chaldean News.[30] They're pledging to convert it to a digital property and invest more in local reporting. Or a philanthropically minded current owner might want to set up a nonprofit vehicle. This is essentially what happened with the St. Petersburg Times when Nelson Poynter donated the daily to a newly created Poynter Institute and when businessman Gerry Lenfest donated the *Philadelphia Inquirer* to a newly created Lenfest Institute. In the case of the St. Petersburg/Tampa paper, it is a for-profit owned by a nonprofit. In Philadelphia, the *Inquirer* is a Public Benefit Corporation owned by a nonprofit.

Donation or sale of a traditional newspaper (or some of its assets) to an existing nonprofit organization or public radio station. An owner can also donate or sell a newspaper to an existing, separate nonprofit organization. It could be a journalism nonprofit operating in another location that wants to open a branch in this new location. Public radio stations may be important prospects as they have already successfully absorbed digital-only local news websites in Denver, New York City, Pasadena, and Washington, D.C. These stations begin with viable business models – memberships and underwriting sponsorships – and preexisting audiences.

Conversion of a for-profit newspaper into a nonprofit or a cooperative. Some states allow conversion of an existing company into a nonprofit organization. In such cases, the owners take a total loss on what they invested when they bought the publication. It requires them to reconstitute the structure with a public service mission, resolve liabilities, create a new board of directors, and take other steps. In Akron, Ohio, a newspaper called the *Devil Strip* converted from an LLC into a "local news cooperative," partly owned by the community itself.[31] Members must live in Ohio to participate. They each get a vote if either they give monthly or become "members for life" by contributing $330. The owner (and now co-op leader), Chris Horne, said he based the structure on the success of microbrewery cooperatives. They officially switched to co-op status in February 2020 as COVID was hitting, so they're struggling, but the new structure helped them survive. "We already had good rapport, but being able to say it's community owned made it much easier to raise money," Horne says. However, the process would have been far easier had there been a road map and training around creating bylaws, doing audience research, and other steps needed to make the transition.

Sale of a newspaper to a for-profit Public Benefit Corporation.[32] The Fund would experiment with replanting with Public Benefit Corporations through terms designed to preserve local ownership. Public Benefit Corporations are private, for-profit entities, with private owners – but they also declare a public mission, in this case meeting the information needs of communities.[33] This means that when making business decisions, they are allowed to not only consider the interests of the shareholders or owners but also the impact on the entity's ability to achieve its public mission. In addition, most Public Benefit Corporations have to submit annual "benefit reports." These are still relatively new – and there are few examples in the local news space. Its board of directors, primarily consisting of local philanthropists and industry leaders, can make decisions for the benefit of the newspaper's long-term sustainability and for the benefit of the community, with no obligation to serve only shareholders. A Public Benefit Corporation's structure could be combined with stipulations to the company's charter forbidding sale to a chain or to an entity that would undercut the company's stated mission.

News organizations have only recently started looking at this approach, but there are a few encouraging examples. The *Philadelphia Inquirer* is a Public Benefit Corporation, owned by a nonprofit. Ken Doctor, the local news expert, is starting a local news initiative in northern California – and decided to go with this structure. He says this has enabled him to bring in both philanthropic and private investment, and has flexibility to create a strong revenue model.

Changes in the tax code could allow such sales to be tax free. The Fund could help a local buying group on the condition of including a provision in the company's bylaws saying that it would first need to be offered to a local community nonprofit for $1. This would prevent a scenario in which a benevolent billionaire or local ownership group protects a newspaper for a while but then sells it to a chain.

Sale of a newspaper to its workers. In 2017, it looked as if the *Chicago Sun-Times*, the working-class paper of Chicago, was going to shut or shrivel. Tronc, the owner of the *Chicago Tribune*, planned to purchase the tabloid. A group led by local alderman Edwin Eisendrath joined forces with the Chicago Federation of Labor to buy the *Sun-Times*. The union helped make the deal possible by investing $4 million, for which they got 40% ownership. While it didn't solve the core business model issues, it at least kept the paper ˆfrom being bought by a hedge fund.

Some privately held newspaper chains have transferred ownership to local ownership consortia grounded in Employee Stock Option Plans (ESOPs). In Illinois, a family-owned chain called Paddock, which was founded in 1898 by Hosea Cornish Paddock, owned the *Daily Herald* newspapers in suburban Chicago. (Hosea's motto: "To fear God, tell the truth, and make money.") The family wanted to get out but declined offers from chains or hedge funds because they wanted to keep the papers locally controlled.[34] So they sold the papers to the ESOP itself, essentially making the employees the owners.[35] These companies have their own set of risks as the value of the shares can fluctuate based on profitability. In Iowa, the *Cedar Rapids Gazette*, first printed in 1883, started a partial ESOP in 1986 while under fourth-generation family ownership.[36] In 2012, the family sold its remaining shares back to the company, and the ESOP (i.e., the employees) became 100% owner. In 2017, the parent company, rebranded as Folience, diversified its revenue stream, buying an ambulance manufacturing company in Iowa and a high-end horse and livestock manufacturing company in Oklahoma. That has enabled them to maintain the *Gazette's* investment in reporting – 15 reporters amidst a 70-person newsroom – to cover a city of 130,000 people. Although it gives the owners more flexibility to invest in strategies for survival, it certainly doesn't guarantee a positive outcome. Monroe Publishing in Michigan had a successful 20 years as an ESOP, but when the economics of news disintegrated, they sold the paper to a chain.[37]

Sale of a newspaper to a Special Information District. New Jersey is experimenting with creating "Special Information Districts" – akin to the 40,000 or special districts around the country that enable communities to levy taxes to finance projects ranging from public libraries to waste management facilities. In this case, the SIDs would help fund local journalism. The leaders originally envisioned a special organization run by the community that would dispense money for information-related projects. However, a variant on that – possibly less subject to political manipulation – would be to use an SID to raise the money to acquire a newspaper and then donate it to a nonprofit organization.

Multimillion-dollar sale of a newspaper to a nonprofit organization or Public Benefit Corporation. Most of the scenarios discussed so far involve the donation of a newspaper or its assets or a sale for a *de minimis* amount. What about newspapers that have dramatically fallen in value but are not yet at the point of donation? If this Fund were well-capitalized enough, then it could help facilitate higher-priced acquisitions, too. In the cases of lower-income communities that have fewer philanthropic resources, it could cover the entire acquisition cost. In other cases, it could purchase a chain of newspapers and then potentially replant individual newspapers into appropriate community structures. These sales could be facilitated by tax changes allowing for the sale of newspapers to nonprofits to be tax-free transactions.

In assessing whether to pursue a conversion, the Fund would analyze three elements: In assessing whether to pursue a conversion, the Fund would analyze three elements:

- the nature of the newspaper
- the approach of the community
- the efforts that would be needed to make the transition successful

Speaking in metaphorical terms, there's the plant, the soil, and the fertilizer. As with gardening, all three elements are needed. There will be worthy newspapers that cannot make the transition because there is not a sufficiently robust community organization or leadership cadre. And some needy and eager communities will have a local newspaper already gutted too much to save. In those cases, the need for philanthropy to help stand up new organizations will become even more urgent.

The Plant (The Newspapers). Which newspapers might be candidates? The sad reality is that many newspapers are too far gone. Past managers may have gutted the editorial too much, or eroded circulation, or harmed the brand, or taken on unsustainable pension obligations or debt. Although the Fund would be a philanthropic organization, it must also be realistic. The Fund would develop rigorous criteria and would be willing to turn away news organizations or communities that may want to make the effort.

The Fund could start by working with owners that may want to shut. These would not only be newspapers owned by hedge funds but also family-owned chains that are looking to create a lasting legacy rather than selling to a hedge fund or closing down their publication. The Fund would work with family-owned chains to structure bequests of newspapers to nonprofit organizations upon the death of the owners. This category includes many papers serving Black and immigrant communities; by focusing the Fund here it could play an especially important role in supporting a rebalancing of the local news ecosystem such that it serves the communities that have been marginalized by the larger outlets.

When will it make more sense to replant a newspaper rather than start a news organization from scratch? Legacy news organizations have many burdens. But we shouldn't underestimate the value that has been built in some of these legacy institutions. Some have a trusted brand, subscriber lists, and advertising portfolios that have been built over decades. Collectively, these institutions have grown via billions of dollars of investment. While much of that value has been frittered away, not all of it has been. Conversely, when creating a news site, one of the most expensive elements is developing a sufficiently large list of people who are willing to pay for a subscription or membership. So we should not operate on the assumption that starting a news organization will always be more cost effective than converting an existing property.

When assessing the future viability of a news organization, the Fund would look at these potential assets:

- **Paid subscriber list:** Consider the size, growth patterns, and quality of the subscriber base, the latter determined by renewal rates and cost of acquiring those names. Ideally, the newspaper would have made some steps in the direction of growing digital-only subscriptions and have substantial numbers of print subscribers that are regularly engaged with the digital products, so that they will continue to support the news organization even as printing and distribution cuts are made due to declining consumer demand for print.

- **Email list:** The most effective source for future paid digital subscriptions is a robust and high-quality email list (with strong open and click-through rates), usually built around one or more email newsletters. Those who read a newspaper's email newsletter are 5 to 10 times more likely to buy a paid subscription, according to a study by the Shorenstein Center and the Lenfest Institute.[38]

- **Advertisers:** The Fund would look at both size and long-term prospects, and whether advertisers would be willing to stick with the publication if some of the print editions were shut.

- **Local web traffic:** It will be especially important to see what kind of recurring traffic comes from *local* readers.[39]

- **Social media followers:** The Fund would look at whether the newspaper has been able to draw in younger readers or has developed any regular social following. Studies also show that those who follow a media brand on social media are 4- to 6-times more likely to subscribe.[40]

- **Brand:** Does the newspaper still have a well-known brand? Or has a decline in readership and quality made it only known to older residents? Does the newspaper have negative brand baggage that cannot easily be shed? An in-depth Harvard Business School study showed that paid digital subscriptions work better if you have a strong reputation.[41]

- **Quality of remaining staff:** Are great journalists still involved, or will it need to be rebuilt from scratch? How much capacity is still in place to do great original reporting?

- **Revenue:** Some newspapers are headed south and yet still produce positive cash flow. This can provide the new organizations more runway as they transition to a sustainable model.

- **Price:** Mostly the Fund would seek situations in which newspapers would be donated for free or acquired for small amounts. While the COVID pandemic has created an urgent need, it has also offered a historic opportunity, driving down the potential sale prices of local newspapers. That means that while the ROI for newspapers is down, the CROI can be greater than ever. (There will, no doubt, be instances when local buyers will be willing and able to spend more to acquire a paper. Although we're not opposed to those scenarios, that would not be the focus of this Fund.)

In all honesty, there is still a lot we do not know about how exactly the above-mentioned assets might translate into a new nonprofit structure. For instance, if a newspaper has 20,000 paid subscribers, how many of them are likely to become donors or members of a nonprofit version? Of the previous advertisers, how many would likely stick with a nonprofit underwriting model? To what extent does web traffic or email lists presage the ability to build up memberships? The Fund would need to become experts on these questions.

A newspaper's *liabilities* could include pension obligations, printing contracts, printing facilities, or severe reputational damage due to poor journalistic behavior in the past. In some cases, the Fund would attempt to negotiate asset-only donations or sales that would leave the community acquirers without the burden of handling these liabilities.

The Soil (The Community). All communities need and deserve strong news sources. However, some may be better equipped to convert an existing newspaper than others. Merely removing the yoke of regressive ownership is not sufficient to make a news organization successful. It merely liberates them to then tackle the difficult challenges of creating a sustainable nonprofit. So the Fund would need to carefully assess whether the host entity would be well positioned to build or run successful news organizations. It will need to create robust revenue streams and make difficult decisions about scale, whether to phase out or reduce print publication and other matters. Factors that would need to be considered:

- **Need:** Is this the only news source in the community? Is this news source essential for this community to have a healthy democracy? Might it help fill deserts in nearby regions, especially rural areas, as well as the metropolitan core?

- **Mission:** Is this organization truly established for the purpose of providing long-term, civically valuable reporting to the community?
-
- **Support:** Have funds been collected or pledged to provide a path to sustainability? Do a broad set of stakeholders in the community feel passionately about the project? What are the prospects for fundraising success?

- **Leadership:** Is there an entity ready to take over operations? Are there leaders already identified on both the business and editorial sides?

- **Plan:** Is there a plan to make this a sustainable, nonpartisan news organization within two years, and to grow its size in the subsequent years? Is there an understanding that nonprofits have just as much of a need to develop sustainable revenue models as for-profits?

- **Diversity:** Would this help advance influence and ownership of a broader range of Americans, especially people of color and other groups that have not been well represented in local media?

- **Market:** Is this a market that could sustain a local media institution like this (whether it's focused on earned revenue or philanthropy)? Does it cohere as a community in a way that lends itself to a community publication?

- **Scale:** Is the number of locally focused journalists at the existing property likely to be matched by a digital news startup, or would there be more local reporting capability in maintaining the existing news organization?

- **Nonpartisan:** Is the new organization committed to running the newspaper as a nonpartisan, independent organization? Would its funders or backers warp its coverage or undermine the ability to provide fair-minded reporting for the community?

- **Alternative:** How does the cost of replanting compare to the cost of starting and growing a news organization from scratch?

The Fund would not merely be reactive, taking incoming applications, but would proactively engage with communities that seem like prime candidates.

The Fertilizer (elements of a successful replanting). Even if all the above factors shout out "green light," communities will need help to pull off the transition. Once the Fund decides to target a particular newspaper and community, it would provide, or contract for, a number of different critical services to help with the extraction, transfer, and growth phases.

Legal and tax help. One of the biggest costs of conversion is paying lawyers and accountants to create nonprofit applications and set up new structures. The Fund would pay most or all of the costs for the local community organization to execute the conversion. That could include drafting the application to the IRS for tax-exempt status, creating nonprofit bylaws, and guiding the community on creation of an appropriate board of directors. The goal would be to have newly raised community funds go to support journalism, not lawyers.

Bankruptcy representation. The Fund would seek standing to represent local communities in appropriate bankruptcy proceedings affecting local newspapers. This may include pressing the case that the community itself might be a "party of interest," worthy of consideration. In other cases, the Fund might work with community groups to prepare acquisition bids to be considered by the court. In some cases, the Fund might organize community groups to offer bids during bankruptcy proceedings.

Interim ownership. There may be cases when newspaper owners need to move quickly, and a community cannot get its resources and plans together in time. In such cases, the Fund may consider acquiring the news organization, holding it and then redonating it to the local nonprofit within a fixed amount of time. It is also possible that the Fund could purchase a newspaper chain, break it up, and then donate each newspaper to different local custodian groups in different cities. And in some cases, the Fund could provide fiscal sponsorship while local groups await IRS approval.

Equity. To succeed, these replanted news organizations will need to excel at covering marginalized communities that have been badly or under-covered. The Fund could provide additional resources to help with that transition and increase the odds of success.

Re-startup capital. It's important to remember that "nonprofit" is not a business model. Replanting in a nonprofit organization, or a Public Benefit Corporation, does not guarantee success. Indeed, many nonprofits have launched with idealistic intentions and stalled for lack of agile or hardheaded business management or a strategy for revenue generation or audience engagement. The Fund can play an important role in moving the organization to success by providing capital and expertise aimed at creating sustainable business models. New owners could decide that the best path to sustainability is to go from daily print publication to weekly, while increasing the emphasis on digital subscriptions. That could require operating capital, too.

The Fund could help in a variety of ways. Chris Horne at the *Devil Strip* suggests that the Fund could match the commitments made by local community members. The news organization would still have to do the hard work of proving its worth, and recruiting members, but a matching system would amplify the impact of each dollar and accelerate the path to sustainability. That same matching approach could apply to stimulating the growth of traditional local nonprofits.

The Fund should help make available low-interest loans to new owners. Elizabeth Hansen, a leading thinker in the nonprofit news world, and Marc Hand, the founder of Public Radio Capital, have made a particularly creative proposal – helping communities acquire news organizations using tax-exempt bonds. Modeled after a fund that helped public radio stations merge or acquire smaller stations, this "Trust" would provide capital to purchase a newspaper. The bonds have more extended terms (the public radio acquisition bonds were 20 to 25 years) and could be backed by Program Related Investments from foundations or commitments from other major players, perhaps including the social media platforms. That backup, mirroring a bank's letter-of-credit backing for bonds, would provide credit enhancement for the bonds. This bond reserve would be tapped if there was a loan default. Here is a link to their paper, which I view as perfectly complementing this proposal.

Fraser Nelson, the vice president of innovation for the *Salt Lake Tribune*, suggests that "impact investment" funds and "opportunity zone" funds could play a similar role. Impact investment funds are set up to invest in ventures with positive social return. Unlike philanthropy, such funds expect loans to be repaid, or for equity investments to ultimately pay dividends or returns on investment. But the time horizons are long and the expectations are in the low single digits rather than the 20% to 30% required of private equity firms. These funds invested more than $22 billion in 2016, according to one study, but almost none are dedicated to local news. Some funds are created by for-profit entities, others by foundations. Opportunity zones are a creation of the 2017 tax bill, providing special tax breaks for certain low-income areas. More than 200 funds are expected to make more than $46 billion in investment – again, with little of it targeted toward local news.

Shared services. One of the reasons that newspapers merge in the first place is to take advantage of certain economies of scale. If the newspapers lose all those economies of scale, they will have a harder time surviving. The Fund will develop a shared services strategy, providing the local replant with services that replicate some of those efficiencies. For instance, chains amortize the cost of technology development and platforms over many properties. This is particularly true when it comes to the ability of local news organizations to develop successful digital subscription models. Other possibilities might include: HR and payroll functions; certain legal functions; content management systems; donation tools; or ad technology. The Fund may create these services from scratch or contract with other entities – such as the News Project, Newspack, NewStart, American Journalism Project, the Institute for Nonprofit News, the Maynard Institute, the Center for Community Media, or others. The Fund could negotiate affordable services from such parties in exchange for access to the full portfolio. Just as important, this entity can provide consulting to help these organizations run as business-minded nonprofits. For instance, one of the keys to maintaining local journalism will be the art of recruiting more subscribers or members for the digital versions of the product. That's hard, but these new owners can benefit from the tremendous learning that is going on around the country on how to do this well.

By the way, for those hoping that this Fund could help preserve newspapers as they are, I should be clear: In many cases, the best path for a new owner will be to reduce the number of print editions. The goal of this replanting strategy is not to save newspapers-on-paper but rather to save local reporting and local news.

Governance. The Fund would place a representative on the board of directors of each organization that it helps with a replanting. Nonprofit news organizations are far more likely to succeed if they have proper governance, including independent boards of directors that emphasize not only journalistic excellence but also good management and the development of sustainable revenue models. The Fund would also ensure that the organization has proper bylaws, rules for editorial independence, and diversity plans.

Advocacy. The Fund could help represent the local organization before the IRS. In addition, it would represent public interest principles before the Federal Trade Commission, the Federal Communications Commission, the Department of Justice, the Corporation for National and Community Service, and state regulatory agencies. For instance, Fund attorneys might weigh in on merger applications for government agencies.

How big is the universe of publications that would check enough boxes to be worth the money and effort? It's impossible to tell without getting under the hoods of these newspapers and learning more about individual communities. There are 6,736 newspapers in the U.S., including 1,260 dailies and 5,476 weeklies.[42] More than 1,000 are owned by private equity funds. Almost all of them are in dire straits. Very few could be sold for prices anywhere near their valuations from just 10 years earlier. Owners in the next 12 months will be making difficult decisions about whether to shut down many of these papers. "The price of selling newspapers has fallen so dramatically that it now often pays to shut them down," UNC researcher Penny Abernathy states. So it stands to reason that hundreds if not thousands could be targets for consideration. These would be newspapers whose market value is below the value of tax incentives, or below the value that they would get in taking a tax write-off for shutting down the property. The next layer of analysis would be how many of those are worth saving – how many are too far gone, and how many still have tremendous assets that could be used to create a vibrant community news engine if the nature of the ownership structure (and mission) changed. The final layer of analysis would be whether the communities themselves can gather together the capital, talent, and, most important, civic commitment, to make it work. If only 5% of the papers could check all three boxes, that would still mean that more than 300 newsrooms could be revived and reconstituted as community-minded local news organizations. That is about the same as the number of local nonprofit organizations that have been created in the past decade.

This organization would be established as a 501(c)(3) charitable organization. There would be a governing board for the whole organization consisting of a diverse group of men and women with expertise in journalism, nonprofit management, technology, and legal and tax issues. There would also be an investment committee that would approve all transactions. That committee would consist of a mix of staff, board members, and outside experts. It would build a staff that would develop expertise in this unusual subject matter. It would also work collaboratively with other nonprofit and governmental organizations. The Fund would also place one representative on the board of directors of the new local organizations.

The initial capitalization could come from a combination of private philanthropy. The biggest winners of the digital economy could seed the fund. There are also several proposals to create government funds on the scale of the Corporation for Public Broadcasting or larger. Such a government entity could provide a seed grant. Other proposals involve generating billions from a tax on internet advertising or from the proceeds when the FCC auctions broadcast spectrum to mobile providers to create greater broadband capacity.[43] The Department of Justice, Federal Trade Commission, and Federal Communication Commission could encourage support for such a fund as a condition on merger approvals.

This Fund could also be partly financed via bonds (either tax exempt or taxable), along the lines proposed by Hansen and Hand. They estimate that such an approach could enable acquisition capital that mirrors the investment levels coming from the venture firms, with cumulative available capital ultimately being more than $1 billion.

One could start with a pilot to try to convert 10 entities. Once the formula is refined, it could scale up, with an ultimate goal of replanting 200 newspapers, at an average cost of $1 million per transaction. Total capital deployed would be $260 million.

Many questions remain open:

- How many news organizations have sufficient intact assets to be candidates for conversion?
- What are the for-profit assets that translate well into a nonprofit model? Do print subscribers become donors? Does an events strategy work better with an existing newspaper brand than starting with a newly created brand?
- Would there be different strategies for weeklies than for dailies, for chain versus family-owned papers? Are there situations in which locally controlled is not essential or when a national network would work better?

GOVERNMENT POLICY

This approach is more likely to succeed if federal policy creates both incentives for owners to donate newspapers and disincentives for them to pursue their current approaches.

First the carrots.

Tax incentives to donate newspapers to locally controlled nonprofits. The federal tax code should be changed to incentivize the donation of newspapers to local nonprofit community groups. More discussion is needed on exactly how to structure these, but Richard Fox, the tax attorney who managed the conversion of the *Philadelphia Inquirer*, suggests several possible tax changes that could make this an attractive option:

- Allow chains that donate a newspaper to take a charitable donation that uses the "tax cost basis" (i.e., the cost at which they acquired the newspaper) rather than the current market value. That's important because in many cases the current market value of the newspaper is so low that it would provide no meaningful tax benefit if the deduction were based upon fair market value (the rule that otherwise applies).[44]
- Allow the sellers of newspapers to carry over the value of unused charitable deductions for 10 years or indefinitely (until the full value of the carryover is utilized).
- Increase the annual percentage limitations on deductibility of charitable tax deductions for both corporations and individuals donating a newspaper.
- Make the sale of a newspaper to a local nonprofit organization a tax-free transaction (for instance, eliminating any capital gains taxes).
- Make the conversion of a for-profit newspaper to nonprofit status also a tax-free transaction.
- For sale to Public Benefit Corporations, in lieu of a charitable deduction, allow an income tax credit equal to the amount that would otherwise be deductible as a charitable contribution.

These incentives would force owners to look at their properties – especially those performing in the bottom half of their portfolios – with fresh eyes. In some cases, the donation plus enhanced tax benefits may be more beneficial than a simple closure or gutting. It is also possible to craft equivalent incentives through state tax codes.

These benefits would be available not only to newspapers owned by private equity funds but also family-owned chains that may, at this point, be more interested in creating a positive legacy than a financial windfall. This is especially true among ethnic newspapers. With the owners aging and the models declining, they now face the hard choice of closing or selling to a chain.

Tax incentives for chains to donate newspapers to Public Benefit Corporations. Some 30 states have created a new category of corporation that is worth exploring through this Fund. To incentivize the sale of a newspaper to a Public Benefit Corporation or similar entity, the IRS would make the sale tax-free (assuming there would be a gain) and make loss on the sale deductible as an ordinary loss (as opposed to capital loss) that is deductible against any income. The law could also stipulate that if a capital gain is invested into a local corporation with a formalized public service mission, the recognition of capital gains on the sale would be waived.

With those incentives should come legal changes that would make it more difficult, and slower, for owners to shut newspapers or accept mergers that will harm communities. In other words, with the carrots should come some sticks, and (to mix metaphors) some speed bumps.

Regulators and courts should consider localism when assessing mergers. There has been much good discussion about stepped up antitrust enforcement related to social media platforms. While valuable, this discussion misses another important element: changing the government approach to newspaper mergers. Federal communications law already requires the Federal Communications Commission to consider "localism" in its decision-making on matters ranging from mergers to licensing – with an emphasis on encouraging news that is created locally and for the primary benefit of local residents. "Fostering localism is one of this Commission's core missions and one of three policy goals, along with diversity and competition, which have driven much of our radio and television broadcast regulation during the past 70 years," wrote Michael Powell, the Republican chairman of the FCC in 2003. Stations were required to maintain a studio in the community and track programming about the community. In fact, the FCC saw local control and programming as necessary aspects of a community,[45] a view which was affirmed by the Supreme Court.[46] Congress reasserted the sentiment when it came time to regulate cable television, declaring in the 1992 Cable Act, "A primary objective and benefit of our Nation's system of regulation of television broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation."

But localism wasn't encouraged only by the FCC. Historically, it has been a vibrant theme in antitrust debates, too. When the seminal 1914 Clayton Antitrust Act was amended in 1950, Congress stressed concerns about the effects of business mergers on local control. One of the lead authors of the 1950 amendments, U.S. Sen. Estes Kefauver, explained that "local independence cannot be preserved in the face of consolidations such as we have had during the past few years. … The control of American business is steadily being transferred…from local communities to a few large cities in which central managers decide the policies and the fate of the far-flung enterprises they control."[47]

The Department of Justice and the Federal Trade Commission could, under current law, amend their merger guidelines to explicitly state that harms to localism can be strong grounds for blocking a merger.[48] Specifically, when the agency, or a court, considers whether to approve a merger, it may consider the question of whether the merger, particularly in reviewing newspaper mergers, will reduce the quality or quantity of locally produced news.

Since federal courts defer to agency guidance in regard to merger policy,[49] such changes would impose additional speed bumps or in some cases stop mergers that might be sensible for the corporation's bottom line but would leave communities worse off. This could be measured both in the quantity of journalism and also in the percentage of journalism that is actually about the community. Such a decision would be in line with the legislative history of the 1950 Amendments to the Clayton Act, and better align the Department of Justice and Federal Trade Commission merger policy with that of the Federal Communications Commission.

Federal agencies could also encourage localism through merger consent decrees. Agencies routinely negotiate numerous merger "conditions" that they think will help mitigate potential harms. When the Federal Communications Commission approved the merger between Comcast and NBC, the deal included this provision: "To further broadcast localism, Comcast-NBCU will maintain at least the current level of news and information programming on NBC's and Telemundo's owned-and-operated ("O&O") broadcast stations, and in some cases expand news and other local content. NBC and Telemundo O&O stations also will provide thousands of additional hours of local news and information programming to their viewers, and some of its NBC stations will enter into cooperative arrangements with locally focused nonprofit news organizations." The Justice Department could approve an acquisition of a newspaper chain by a private equity firm but only on the condition of additional community-protection provisions – for instance, maintaining a certain number of reporters focused on local issues. Or the new entity could be required to contribute a significant amount of money to support local nonprofit news organizations or the Fund itself.

Change bankruptcy law to allow a greater community voice. Although current bankruptcy law favors the rights of creditors, it does allow for different voices to be heard and considered. For instance, the Bankruptcy Act of 1978 allowed that when it comes to the disposition of railroads, courts had to "take into account the 'public interest' in the preservation of the debtor's rail service."[50] Bankruptcy law already allows petitions from "parties of interest," but that is generally assumed to be creditors and debtors. But it doesn't need to be limited to that. When courts were deciding the fate of Johns Manville, a major creator of asbestos, they allowed for future victims to be granted a voice. Courts could also allow the communities impacted by newspaper mergers or closures to make the case that they have a significant stake in the outcome. And it could allow judges to consider their arguments when making the ultimate decisions. When the McClatchy company was in bankruptcy proceedings, the mayor of Sacramento, home of one of McClatchy's flagship newspapers, the *Sacramento Bee*, wrote to the bankruptcy judge: "I would urge the bankruptcy court to consider what's best for our community and the larger Central Valley when weighing the competing bids for ownership of The *Sacramento Bee* and the rest of the McClatchy papers. We seek to ensure that *The Bee* and McClatchy's other California papers emerge from this process with California owners motivated primarily by a desire to serve the public interest, not the bottom line."[51] It was an audacious move by the mayor; it shouldn't be seen that way. Bankruptcy proceedings should routinely consider such factors when it comes to newspapers.

Slow mergers to give communities time to organize. The Worker Adjustment and Retraining Notification Act (WARN Act), better known as the "plant closing law," requires companies to give 60 days' notice when they plan to shut down an operation that will cause a significant job loss.[52] The law could be amended to say that in the case of newspaper chains, such notification would be needed not only in the case of job loss but if it means the community will suffer a dramatic loss of local news coverage, or if they are to become a "news desert," an area without a regularly published source of local reporting and news. Further, the law should provide at least three months' notice so that communities could have time to prepare an acquisition plan and offer. By the way, this would help not only in cases when the logical acquirer is a nonprofit organization but also for local ownership groups that might want to run it as a civic-minded commercial enterprise. Or, Congress could require employees (or local nonprofits) a right of first refusal on a sale.

Provide greater aid to local nonprofit and locally owned media in general. Government policy ought help the development of locally owned and nonprofit media for a variety of reasons – including that it would make a replanting strategy more likely to succeed. Rebuild Local Media has made a variety of proposals for government policy changes, including these:

- Offer a $250 refundable tax credit or voucher that taxpayers can use to buy a subscription to a local news source, donate to a local nonprofit news organization, or become a member of a local news organization.[53]
- Have the government subsidize a supersized Newsmatch fund, providing at least a 3-to-1 match against what local nonprofit news organizations raise from their communities.
- Have the IRS allow public service journalism to be a legitimate educational purpose in assessing granting of tax-exempt status, and clarify that nonprofit local news organizations can take advertising, have subscriptions, or aggressively deploy other revenue-generating approaches.
- Require that half of federal government advertising go to local media, with a significant portion going to "small media," news organizations with 200 or fewer employees.

Taken together – along with a big increase in support from the philanthropic sector – these government actions would make it far more likely that nonprofit news organizations would succeed, whether they're newly created digital-first operations or newspapers that are converted to nonprofit status.

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We need to act quickly. It is quite likely that hundreds of newspapers will soon face the choice between closure, acquisition by a private equity fund – or a path that might better serve the community. This is a potentially catastrophic situation, but it is also a tremendous opportunity. If we move swiftly and wisely, we can help transform the media landscape into a system that is much better than what has existed. If we don't, the results will be ruinous.

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Endnotes

[1] DiChristopher, "Coal-Mining Jobs Are Holding Steady under Trump's Watch."

[2] Abernathy, "News Deserts and Ghost Newspapers."

[3] Tracy, "News Media Outlets Have Been Ravaged by the Pandemic."

[4] Reichel, "Political Polarization Increases.";
Barthel, "Civic Engagement Strongly Tied to Local News Habits.";
Capps, "When Local Newspapers Close."

[5] Mahone and Napoli, "Hundreds of Hyperpartisan Sites."

[6] Jessell, "Facebook, Google Dominant In Local Ad Market."

[7] "Trends and Facts on Newspapers: State of the News Media."

[8] Watson, "Weekday Circulation of The New York Times."

[9] Tracy, "The New York Times Tops 6 Million Subscribers."

[10] Waldman, "The Information Needs of Communities."

[11] Abernathy, "News Deserts and Ghost Newspapers."

[12] Ibid.

[13] Ibid.

[14] Ibid.

[15] Napoli, "When Local Papers Stop Being Local."

[16] Abernathy, "News Deserts and Ghost Newspapers."

[17] Doctor, "Newsonomics: Alden Global Capital Is Making so Much Money."

[18] Kolakowski, "Why News 'Addict' Buffett Is Selling His Newspaper Assets."

[19] Jeung, "Paywalls Are a 'Tourniquet'.".; Chung, Kim, and Song, "The Comprehensive Effects of a Digital Paywall."

[20] Haile, "It Is Possible to Compete with the New York Times."

[21] "Foundation Maps for Media Funding."

[22] "Introducing INN Index 2018: The State of Nonprofit News."

[23] One of the earliest examples of a for-profit producing strong journalism by partnering with foundations was GlobalPost, the online international reporting organization that was co-founded by Charles Sennott,

who later founded The GroundTruth Project in 2012, which launched Report for America in 2017. Global Post was well-capitalized for an early-stage for-profit but early on realized that it couldn't develop a sustainable business model. With the support of the Ford Foundation, Sennott realized that taking in philanthropic support would allow the news organization to do labor-intensive, deep-dive journalism that would not otherwise be completed.

[24] Hansen and Holcom, "Local News Initiatives Run into a Capital Shortage."

[25] Mahone and Napoli, "Hundreds of Hyperpartisan Sites."

[26] "NPR Audience Profile."

[27] *The New York Times* and *Washington Post* are also examples of wealthy families guiding newspapers to greater health. I left them out of this discussion because they have done this in part by becoming national newspapers, an option not available to most.

[28] Gammage, "Lenfest Donates Newspapers.";
Schmidt, "Three Years into Nonprofit Ownership."

[29] Canham, "In Historic Shift, The Salt Lake Tribune."

[30] Welch, "Chaldean Community Foundation."

[31] Coca, "Community Newspaper Becomes Reader-Owned Cooperative."

[32] Some states have a different structure called an L3C, or Low Profit Limited Liability Company, which has even more flexibility.

[33] Bell, "Non-Profit Corporation vs Public Benefit Corporation."

[34] Marek, "Hope Springs Eternal."

[35] Schechter, "Employee-Ownership in the Publishing Industry."

[36] Friestad, "Gazette Parent CEO Calls for Federal ESOP."

[37] Gray, "A 20-year Story of Employee Ownership."

[38] "Digital Pay-Meter Playbook."

[39] Ibid.

[40] Ibid.

[41] Senz, "Are Paywalls Saving Newspapers?"

[42] Abernathy, "News Deserts and Ghost Newspapers."

[43] Povich, "Taxing Internet Ads.";
Craig, "How the Spectrum Auction Could Save Journalism."

[44] Another approach might be to provide a benefit at a defined multiple of current market value, e.g., five times the current value.

[45] Pacific Broadcasting of Missouri LLC, 18 FCC Rcd 2291, 2293 (2003) ("every community of appreciable size has a presumptive need for its own transmission service.") (quoting Public Service Broadcasting of West Jordan, Inc., 97 F.C.C. 2d 960, 962 (Rev. Bd. 1984)).

[46] FCC v. Allentown Broadcasting Corp., 349 U.S. 358, 362 (1955) ("Fairness to communities is furthered by a recognition of local needs for a community radio mouthpiece.")

[47] See 96 Cong. Rec. 16,450 (1950). (from hanley)

[48] Background recommended by Open Markets analyst Daniel Hanley: Hillary Greene, Guideline Institutionalization: *The Role of Merger Guidelines in Antitrust Discourse*, 48 Wm. & Mary L. Rev. 771, 809 (2006) (detailing growing deference to federal agencies concerning merger analysis and interpretation of merger guidelines). Significant evidence supports that the loss of local control is an important variable to be considered in merger review. See Robert Pitofsky, "The Political Content of Antitrust," 127 U. Pa. L. Rev. 1051, 1064 (1979) ("Virtually all proponents of the bill who spoke asserted that the merger trend must be blocked because ... absentee ownership by large corporations *would diminish local initiative and civic responsibility*," emphasis added). Loss of local control was also considered during the passage of the 1950 Amendments to the Clayton Act. *See* 96 Cong. Rec. 16,450 (1950) (statement of Senator Este Kefauver: "Local economic independence cannot be preserved in the face of consolidations such as we have had during the past few years…[and]…The control of American business is steadily being transferred . . . from local communities to a few large cities in which central managers decide the policies and the fate of the far-flung enterprises they control. Millions of people depend helplessly on their judgment. Through monopolistic mergers the people are losing power to direct their own economic welfare."). The loss of local control also exists in bank merger law. *See* Community Reinvestment Act, Pub.L. 95–128, Title VIII, § 802, Oct. 12, 1977, 91 Stat. 1147, codified as 12 U.S.C. § 2901. See 12 U.S.C. § 2901(a)(3) (stating "regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the *local communities* in which they are chartered," emphasis added).

[49] Greene, *Guideline Institutionalization.*

[50] Veach, "On Considering the Public Interest."

[51] Steinberg, "Steinberg to Judge."

[52] "29 U.S. Code § 2101 - Definitions."

[53] "Local Journalism Sustainability Act."