



Association of Directory Publishers

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President & CEO

City of Seattle Update

February 3, 2011

To: All ADP Members

Fr: Larry

Re: Defendants' Cross-Motion for Partial Summary Judgment
And Opposition to Plaintiffs' Motion for Summary Judgment

THIS IS THE FIRST IN A SERIES OF OPT-OUT ADVISORIES SCHEDULED

As you are no doubt aware, the Yellow Pages Association, Dex One, and SuperMedia filed on January 13 in U.S. District Court in Seattle a Motion for Summary Judgment to invalidate Seattle Ordinance 123427, which bans distribution of yellow pages without a license, charges yellow pages publishers for every directory we distribute, forces publishers to print the City's messages on our directories and to participate in a duplicative and burdensome City-run delivery opt-out scheme.

The Motion demonstrated that the Ordinance violates both the First Amendment's guarantee of free speech and the Commerce Clause.

On Monday, January 31, the City of Seattle filed their response to the industry's motion.

The same day, the Seattle City Council amended the directory delivery ordinance to eliminate the \$248 per ton recycling fee. The ordinance was also amended to put time limits around the licensing process and to provide for appeals from license denials. The \$.14 per directory advance recovery fee was not changed.

While the amendments are small steps in the right direction, they clearly are insufficient for the industry to revise its legal strategy in opposition to the ordinance.

The industry will file a reply to the City's response early next week.