



Association of Directory Publishers

R. Lawrence Angove
President & Chief Executive Officer

San Francisco Update:

Industry Prepares for Litigation

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To: All ADP Members

Fr: Larry

Re: Selection of Law Firm to Lead Litigation

Last Wednesday, in the aftermath of the previous day's passage of the opt-in ordinance by the San Francisco Board of Supervisors, representatives of ADP, Valley Yellow Pages, AT&T, and the Local Search Association (formerly YPA), including legal counsel of each organization, met by conference call to plan the industry's continued opposition to this ill-conceived legislation on First Amendment grounds. A key part of that discussion was to identify law firms with proven First Amendment expertise and to solicit from those firms proposals for representation on this matter.

On Thursday, the full Board of Directors of the Association met by conference call to discuss ADP's role in any upcoming litigation. Three directional decisions were agreed upon on the call: 1) that this opt-in ordinance poses a life-and-death threat to print Yellow Pages; 2) that ADP will strategically support any legal challenge to the ordinance, all the way to the U.S. Supreme Court, if necessary; and 3) that ADP will financially support this challenge proportionately as is appropriate.

On Friday, the representatives of the four organizations and counsel met again to review and discuss the litigation proposals from five highly respected law firms. No final decision was made, but the list was narrowed to two, possibly three, firms. The group will meet again later today with the goal of selecting

the law firm that provides the industry with the strongest probability of having the ordinance found to be unconstitutional.

As one who was on the ground in San Francisco, and who has already taken calls from Publisher members across the country who have been confronted with questions about the San Francisco ordinance by advertisers, bankers, vendors, etc., I would presume to suggest to every U. S. Publisher that they take the threat of wildfire duplication of this malignant opt-in protocol very seriously.

Lastly, there are three imperatives that every Publisher should consider in order to keep the wolves at bay:

- Make sure all of your books are listed on yellowpagesoptout.com. This is your simplest and best first-line-of-defense. It tells any adversary that you're already on board. If some or all of your books are not listed on yellowpagesoptout.com, call me and I'll help you get fully enrolled.
- No more dump and run! Don't give the antis any ammunition for their hysterical public relations efforts. Consider sweeps 5-7 days after initial delivery. Get those books that have not been taken in off the streets and out of sight!
- Develop a protocol to deliver to multi-unit offices and residences. Pallets in the lobbies won't cut it anymore. Work with owners and building managers to insure that your books get to those that want them.

Message of my sermon: do the things that will make you less vulnerable to criticism or worse.

We can't play ostrich on this one!!