

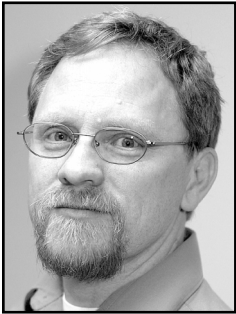
N.I.C.E. News

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July 2006

President's Message

BY STEVE DEVORE



Steve Devore

The 2006 NICE conference in Wenatchee, Wash., has come and gone, and I hope those of you who attended have been able to implement some of the ideas that were shared with you by our guest speakers and from your fellow circulators. If you attended, thank you for your participation in NICE. If you were unable to attend, we have a real treat for you in 2007. But more on that later.

Many thanks to our host newspaper, The Wenatchee World, they made sure things were first class all the way. Circulation Director Ed Navarro (a new NICE member) and Chief Operating Officer Steve Robinson made sure the many details of being the host newspaper were taken care of. Editor and Publisher Rufus Woods hosted a great wine tasting event at the Wenatchee World's own theater, the Pressroom Theater. Our speaker for our annual banquet was Chairman of the Board, the very entertaining, Wilfred Woods. Thanks to everyone at The Wenatchee World who helped make our conference a great success.

The cost for you to attend a NICE conference is very reasonable in part because of the participating vendor members. Please thank them when you have opportunity. And of course, it would be difficult to hold a conference without Dale Irvine, our Secretary/Treasurer, who puts in many hours organizing our conferences and negotiating with hotels to make sure we get the most for the least. Dale has already put in much time on our 2007 conference. But more on that later.

Pam Coleman, Circulation Marketing Manager at The Bulletin in Bend, kicked off our conference with the topic of "Paid e-editions and circulation marketing". Pam brought her expertise with paid e-editions from having worked at two different newspapers with e-editions, giving us the real story on how to start up an e-edition. Hint: You are not competing against your print version, but rather reaching a new audi-

ence. Pam also shared some of the marketing that Pam and Circulation Director Keith Foutz are using at The Bulletin, one of the fastest growing papers in the nation.

If you work in newspaper circulation, you are dealing with change. Dr. Gene Sharratt of WSU spoke to us on the topic "We must adjust to changing times, but cling to unchanging principals." Gene reminded us that it is still all about people.

Chad Jeanette presented the latest ABC updates. If you have not met Chad, he is very willing to help you and answer your ABC questions.

Sometimes, experience in another industry can help us think outside of the box. Kurt Welu of The Omaha World spent many years in the highly competitive tobacco marketing business before taking a position in the newspaper industry. Kurt's success in working with retailers in single copy has made him a popular speaker for circulation conferences. His ideas certainly made sense, based on the furious note-taking that was going on.

Not every speaker is required to sing. But Robert Rubrecht from NAA usually gets audience requests. Funny songs and a great voice keep an audience listening. Robert brought us the latest NAA research on readership growth strategies. With all of the change in our industry it is nice to have an organization tracking what is working in the most successful newspapers.

I would guess that attorney Michael Zinzer is the most quoted person in circulation departments nationwide. Mike's training has been invaluable to many circulators when they have been challenged on employee vs. contractor issues. Mike brought us up to speed on recent court decisions regarding contractors and union issues. Mike also held Zinzer's court, which is a very entertaining way of testing our knowledge on contractor issues. Michael Zinzer has been a friend to our industry and specifically to NICE for many years. He has been a speaker, business sponsor and defender. All of those in attendance were extremely pleased to see Mike presented with the NICE 2006 President's Award. Congratulations and thanks to Michael Zinzer!

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Legally Speaking

by *L. Michael Zinser* • NICE General Counsel

There is currently an epidemic around the United States involving the all-important independent contractor issue. State departments of unemployment are aggressively attempting to re-classify newspaper carriers to be employees. The name of the game here is tax dollars! They attempt to tax as wages the profits of the independent contractors. Within the last six to eight months, I have handled such unemployment matters in California, South Dakota, Texas, Pennsylvania, New Jersey, and Connecticut. It is almost as if auditors from state unemployment agencies went to a convention and heard a speaker urge them to attack independent contractor status – a great source of untapped tax revenue.

The good news is that newspapers are winning most of these battles. Strategy is very important when faced with this assault. The assault often begins with a simple claim for unemployment benefits by a newspaper carrier whose contract was terminated. It is tempting not to contest this case because the amount of money seems insignificant. Think again. These agencies use the simple claim for benefits to make an employee ruling. This ruling then becomes their excuse to insist of a full-scale audit, requesting to see all IRS Form 1099's. The next thing that happens is a big tax assessment. I recommend that you take every attack on status seriously. Involve your legal counsel early, and develop an appropriate strategy.

On April 5, 2006, I received a favorable decision in just such a case on behalf of the Herald-Standard, a newspaper in Uniontown, Pennsylvania that is part of Calkins Media. This case involved a claim for benefits on the part of a newspaper carrier. The truth of the matter is that the newspaper carrier involved also believed that he was an independent contractor; he just did not understand that independent contractors were not eligible for benefits. The agency, however, became very aggressive and seized upon his claim to try to obtain an employee ruling. I smelled the tax auditors at work.

The newspaper appealed the initial determination, and we had a hearing before an administrative judge, who ignored facts of strong independent contractor status and made an employee ruling. Undeterred, the Herald-Standard appealed to the next step. Pennsylvania has good case law on this issue. The April 5, 2006 decision by the Unemployment Compensation Board of Review of the state of Pennsylvania reversed the decision of the referee and

made an independent contractor ruling, relying on the following factors:

- The newspaper carrier performed services pursuant to a written contract.
- The newspaper carrier purchased the newspapers at wholesale.
- The newspaper carrier determined the time and sequence that he or she would deliver the newspapers on the route.
- The newspaper carrier supplied the vehicle for delivering the newspapers and paid all of the expenses for the operation of the vehicle.
- The newspaper carrier was required to attend no meetings of other newspaper carriers concerning newspaper delivery.
- The newspaper carrier had the right to deliver competing newspapers.
- The newspaper carrier had the right to hire helpers and/or engage substitutes to perform the services under the contract.
- The newspaper carrier's contract compensation was not based upon hours worked; rather, it was based upon the number of subscribers who purchased the newspaper on the route.

Because of these factors, the Board of Review determined that the newspaper carrier was and will continue to be free from control or direction over the performance of his contract services, both under his contract and in fact, and his delivery services were such that he was customarily engaged in "an independently established trade, occupation, or business."

Critical to success in this case was the hearing strategy. The Herald-Standard took this claim for benefits seriously and developed a full record. The case was not treated in a routine manner. Our firm appeared on behalf of the newspaper and presented multiple witnesses and exhibits in the event that an appeal was necessary.

Had the Herald-Standard not appealed the adverse ruling in the context of a complete and strong record of independent contractor status, the tax auditors, in all probability, would have been knocking at the door, attempting to assess new tax dollars.

Building Your Internet Edition

Jim Crowl • Circulation Manager, Moscow-Pullman Daily News

The internet is becoming more and more of a way of life, as increasing numbers are using it as a source of news, entertainment, and escape. I go back to the “pre-internet” days using a telnet connection to surf between various information sites, many of which were hosted on University sites- all of which I accessed with a 300 baud modem. A “high speed modem” (1200 baud modem) was much too expensive (about \$100) for most of us- besides why would we need to read or research that fast. Our view changed when US News & World Report put not just printed stories, but a reproduction of its front cover online. At the time I was asked if I thought if the web would ever replace the newspaper. I said no, but responded that I thought newspapers would remain the leaders in both print and internet news, and definitely would deliver publications through both methods.

We later passed through an era when most newspapers put up internet sites with sometimes only a goal “to have one”. More often than not they were left-overs off the print edition table. Rarely were they considered a source of revenue. We did not understand that the internet readers, and needs of online readers, were not necessarily the same as those we were used to. Today newspapers are again starting to take a leadership role in online editions, and developing products for today's and future readers.

At The Daily News we made a decision to scrap our old site, and build a new online edition. The result was DNEWS.COM

What we have now is phase 1, which includes an online edition with local news integrated with easily sorted AP News and Sports. We made the decision to hire a programmer and design our own site, rather than go with one of the packages that are available. Unlike the old site which was stagnant, the local and AP stories can update at any time. With two major Universities in our primary marketing area (U of I and WSU) being able to research local issues was important. On the old site a reader could go back a week to look at old stories. In the year that we were planning and building the site our people were building an eight-year story archive which we made available a couple months ago when the new site debuted. This has proven to be a popular feature.

How do you price the online edition?. There are a number of different models that papers are using from offering a free site to separate charges for both online and print. We charge a monthly fee for the internet edition, but offer it free to paid subscribers of the print edition. We are competing with two other dailies throughout our market. We don't want readers to have to split their news budget one more way, yet have the benefit of revenue from the non-subscribers of the print edition. I'm not saying that I won't ever add a print subscriber access fee, but for now we are hiring an internet ad rep and looking at adding additional revenue that way.

How do you promote the online edition? Word of mouth certainly started the ball rolling as we not only had online edition requests coming in locally, but throughout the Northwest. We are using a number of methods to introduce subscribers to the new site, including full color rack cards, house ads, and referrals from other sites. Our fair booths, which usually get a lot of visitors, will not just have a Daily News banner, but also a DNEWS.COM sign below. We will have computers on hand to show readers the site, issue passwords and sell internet subscriptions. Although we cover a fairly extensive area with our carrier and motor routes, we often get requests for subscriptions outside of our delivery area. These are in areas that residents feel are overpopulated if you can see another house while sitting on your front porch and would be operated at a loss if 100% of the residents subscribed and gas was still under \$2.00! We are now looking at options of marketing to these people with the internet edition, or where desirable an internet with weekend print edition option. We are also developing a “leave-behind” crewing/sampling piece that will refer people to an online site preview.

What's next? We have a well received basic site, but will be adding a number of circulation pages, including online route applications/information, newsstand info, and links to our “dining club card”. The advertising dept. is working on a number of projects such as job banks and combo buys. Our plan is to develop good interactive features, as our research indicates that people want to feel part of the newspaper through bogs, poles, and feedback methods.

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We are exploring the many possibilities of “value added content” that does not fit in the print edition. For example if one of our photographers shoots a college game there may only be room for one photo on the sports page. However he may have a couple dozen digital shots of the game that were never used. Posting some of the additional photos would be of interest to many readers, yet would cost us little.

Although I feel it is important to have a good internet site I feel the print edition will remain popular. As one customer put it “ I work in computers all day long, then spend hours at home on the computer paying bills, e-mailing photos to the relatives etc. I really prefer to stretch out on the couch and read a “real newspaper”

NICE members who would like a temp. Password to look at DNEWS.COM are invited to email me: jcrowl@dnews.com

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Two years in the planning. The 2007 NICE Sales conference will be aboard a cruise ship. Russ Davis already has some of the nation's very best circulation speakers lined up. Dale Irvine has negotiated a deal that brings the expense to a price comparable to a regular NICE conference. Four days and three nights aboard the Oosterdam, beginning in Vancouver, Canada, and concluding in Seattle. We'll meet in Seattle, travel to Vancouver as a group by bus and cruise back with stops in Victoria, B.C. and Astoria, OR. This is the conference you don't want to miss. Don't delay, get your passport today!

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