

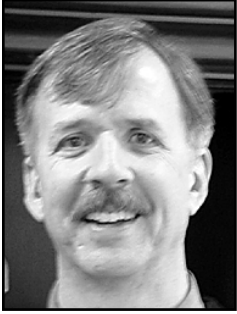
N.I.C.E. News

Alberta • British Columbia • Manitoba • Saskatchewan • Alaska • Idaho • Montana • Oregon • Utah • Washington

January 2006

President's Message

By Rick Sass – NICE President



Last newsletter I told you it was a tough time to be in the newspaper business – especially the circulation side of the business. I lied. It's a great time to be a circulation professional, ripe with opportunities for creativity. At least that's what my boss keeps telling me. Perhaps your publisher has delivered the same timely message.

And when you get right down to it, we all are rewarded for creativity and innovation. Those of us who are the most innovative frequently are rewarded the most with advancement and achievement. It is the creativity that gets recognized with awards and promotions. It is the creative newspapers that draw readers, and readers, as we all know, draw advertisers.

Twenty-seven years ago when I began my newspaper career, newspapers were generally delivered by legions of elementary and middle school kids trying to earn some extra money for bubble gum, baseball cards and maybe an occasional malt or popcorn at the movies. There were no such things as EZ Pay customers, electronic editions, pagination, or a national newspaper. There was no CNN, CNBC, ESPN, USA TODAY, Internet or for that matter Microsoft or Starbucks. Newspapers were black and white, mostly delivered in the afternoon and generally cost 25¢ daily. Single copy sales, for the most part, represented less than 10% of the daily paid volume of all but a few newspapers and were generally overlooked as being a relatively unimportant sidelight to the home delivery copies. And the thought of "target marketing" college students, "Yuppies," seasonal sales areas, gated communities, high demographic areas or retirement homes was ridiculous.

And newspaper circulation departments were generally designed with one purpose in mind – get the papers out the door on time and placed on the doorsteps of readers in "clean, dry, readable condition." Circulation was a delivery and service department and usually hidden in the back of the building.

We've come a long way. Servicing customers is still a critical part of what we do each day, but sales plans have become much more important than they were in the past. And revenue growth is, I'm sure, a critical part of everyone's annual plan. Circulation revenue, while still a relatively small portion of the total newspaper

revenue picture, represents a critical component of a newspaper's profit plan.

And as newspaper sales plans have become more complex and the sales efforts more challenging, we've raised the bar on the caliber of employee we've pursued. Years ago if you joined a newspaper circulation department and possessed a college degree as I did, you were looked at a little funny. The expectation was "here comes Joe College" to tell us all what to do, when he doesn't have a clue himself (which may well have been the case). Now, with the dawn of demographic profiles, targeted and segmented reader profiles and sales efforts, readership studies and debates over paid circulation vs. readership numbers, a college degree is not only common, but often preferred. Why, just understanding the ongoing changes to ABC regulations and exactly what they mean in the "real world" requires a specialized degree by itself.

With the upgrading of talent in circulation departments we have seen some of the best marketing minds in the business emerge from the ranks of circulation frequently and with them some tremendous creativity in sales planning. It's that creativity that constantly must be tapped to come up with the next big idea for building and expanding the business. Some of the wildest ideas become some of the best approaches to the old problems of building readership and sales. And in these days of eroding paid circulation numbers and the resulting inevitable expense budget cuts we all have to listen a little closer to some of those wild and creative ideas for ways to make the budgets.

Take for example the idea of utilizing your existing carrier force to distribute other products (some of which have traditionally been viewed as competitors in the past). It's an idea that years ago would have been frowned upon even at a newspaper like mine – USA TODAY. But now we have partnerships with papers as large as the Indianapolis Star, the Miami Herald, the Arizona Republic and the Denver Post and as small as the St. Cloud (MN) Times, the Port (OH) News Herald and the Lawrence (KS) Journal-World. And while these delivery partnerships started with home delivery, single copy partnerships have taken root as well.

The concept makes sense – the local newspaper has a delivery "footprint" in place with an existing carrier force and infrastructure. The combined delivery benefits both participating publications' bottom lines by establishing economies of scale (not having to pay full price for the time and mileage of each delivery since both are taking place at the same time), and the delivering carrier force can pick up some additional compensation at a time when downward spiraling volumes and rapidly

(President's Message Continued page 4)

Legally Speaking

by L. Michael Zinser - NICE General Counsel

In this month's column we report on a great independent contractor victory for the Louisville Courier-Journal, a union's attempt to buy Knight Ridder newspapers, and unemployment agencies' attacks on independent contractor status.

1. Courier-Journal gets Independent Contractor Ruling

On April 1, 2003, the National Labor Relations Board Region 9 office found that newspaper carriers at three distribution centers of the Courier-Journal in Louisville, Kentucky were employees. On August 27, 2005, while the case was pending before the NLRB in Washington, D.C., the NLRB made an independent contractor ruling in the St. Joseph News-Press case involving the status of newspaper carriers. On the same day, the NLRB remanded back to the NLRB regional office the Courier-Journal decision and asked the regional office to reconsider its decision in view of the new ruling in St. Joseph News-Press. On January 6, 2006, the NLRB reversed course and ruled that the newspaper carriers at the Courier-Journal are independent contractors and not eligible for unionization.

In the supplemental decision order, the NLRB stated, "I have carefully reviewed the record in this matter... and I conclude that there is no meaningful distinction between the instant case and St. Joseph's. The precedent of St. Joseph's provides clear guidance as to the status of the carriers in the instant case — that being that they are independent contractors rather than employees."

The NLRB determined that the newspaper carriers had the right to control the manner and means of delivering newspapers. The carriers were free to determine the sequence of delivery. The carriers had the right to use substitutes whenever they desired. In the event that the publishing company had to make a delivery for the carrier, the carrier was charged by the Courier-Journal for that delivery.

The carriers were required by contract to provide the vehicle needed, to fuel it, and to maintain it. Significantly, the NLRB noted that the Courier-Journal exercised no control over the vehicles; the Courier-Journal was not involved with carriers' acquisition or ownership of the vehicles.

With respect to entrepreneurial liberty, the carriers had the right to deliver other products at the same time they were delivering the Courier-Journal. Carriers also had the right to contract for more than one route. Again, the NLRB emphasized the right of the carriers to utilize substitutes when the carrier was unavailable to make deliveries. The carriers were free to do this without approval of the Courier-Journal, and the carriers handled all of the remuneration for the substitutes. The carriers also had the right on their own to sign up new subscribers and receive a bonus in the range of \$2.00 to \$10.00.

The carriers were not subject to any discipline. The only option available to the Courier-Journal if there were problems with a carrier's performance was to declare the contract in breach and to terminate it. "Thus, the progressive disciplinary procedures applicable to the employer's

other employees do not apply to the carriers."

Significance was placed upon the NLRB's holding in St. Joseph News-Press that the parties believed that they were creating an independent contractor relationship. This is evidenced by the written agreements between the parties, which clearly stated that the newspaper carriers were independent contractors. The carriers were recruited for open routes through newspaper advertisements seeking "independent contractors." And in the negotiating process, carriers were told by management that they would be independent contractors.

Congratulations to the management team of the Louisville Courier-Journal.

2. Union Buying Publishing Companies?

On December 23, 2005, it was reported that the Newspaper Guild and the Communication Workers of America are seeking investors to buy eight Knight Ridder daily newspapers that currently have Guild bargaining units. Guild President Linda Foley announced that the Guild had retained two advisory firms to work with the union to find investors to attempt to affect a worker-friendly buyout of the newspapers.

From my perspective, this is recognition by the Guild that a buyer of the unionized newspapers may make an asset purchase of the properties, enabling a buyer to disavow what it may regard as unfavorable labor contracts and establish new initial terms and conditions of employment for the buyer. It appears that the union is "circling the wagon" in an attempt to preserve past bargaining success at these particular newspapers.

One can persuasively argue that this attempted purchase represents a conflict of interests for the union involved. How does the union maintain costly union contracts and at the same time return to investors a profit commensurate with newspaper industry standards?

3. Unemployment Compensation Wars

We are witnessing an epidemic of challenges to independent contractor status by state unemployment agencies. From California to Pennsylvania and at points in between, newspapers are currently embroiled in litigation with these state agencies over the issue of whether newspaper carriers are employees or independent contractors. The fact that there are so many of these cases in so many states suggests that, quite possibly, there was a convention of unemployment compensation tax auditors somewhere in America at which a speaker suggested to them that attacks on independent contractor status would be a fertile source of revenue.

The good news is that newspaper publishing companies have been successful at proving independent contractor status. As a caution, I recommend that publishing companies look closely at individual claims for benefits on the part of newspaper carriers whose contracts have been terminated. Often publishing companies think that it is not cost-effective to wage a battle over a simple claim for benefits.

Think again. These state agencies use an employee ruling on an individual claim as the "excuse" to seek an audit of all of the newspaper's records involving its independent contractors and to assess thousands of dollars in back taxes. The individual claim for benefits is the first place to make your stand to protect independent contractor status.

Russ Cooks Up A Hot Idea

By: Russ Davis, Herald Journal, Logan, Utah

Henry Kissinger once said, "If we do what is necessary, all the odds are in our favor."

In our jobs there are a lot of necessary things we need to do every day to make the business grow. Through the years I have been enlightened by some of the region's best circulation executives at the annual NICE Conference. Each year the NICE board looks at items that need to be addressed and tries to present them at the annual conferences. Hopefully you all have submitted your 2006 NICE annual membership and have marked your calendar to attend the upcoming NICE conference in May.

One necessary item that is vital in our business is Easy Pay. During this past year our paper has made Easy Pay a top priority. In January we had 16% of our total subscribers on Easy Pay and just finished the year at 27%. One of the items that pushed our Easy Pay during the summer was a crazy idea I came up with.

Back in February I was at a planning meeting for our community "Outdoor EXPO" and was sitting next to the Marketing Director for Camp Chef, a local manufacturing company, here in Logan, Utah. While we were talking I asked him what it would cost to produce a custom Dutch oven with our newspaper logo on it. He informed me that it could be done and that it was a minimum order of 500 Dutch ovens. With this information I next went to my publisher and presented my crazy idea of having custom made Dutch ovens with our logo to give out to everyone who converted over to Easy Pay or signed up for Easy Pay. Since it was a \$10,000 investment, my publisher's concern was that he didn't want to have a warehouse full of Dutch ovens collecting dust. I informed him that Cache Valley was the headquarters of the International Dutch Oven Society and that with all the

local community events that we had planned for the summer that I could always sell them. With the OK in hand we then created the design for our custom made oven and placed the order.

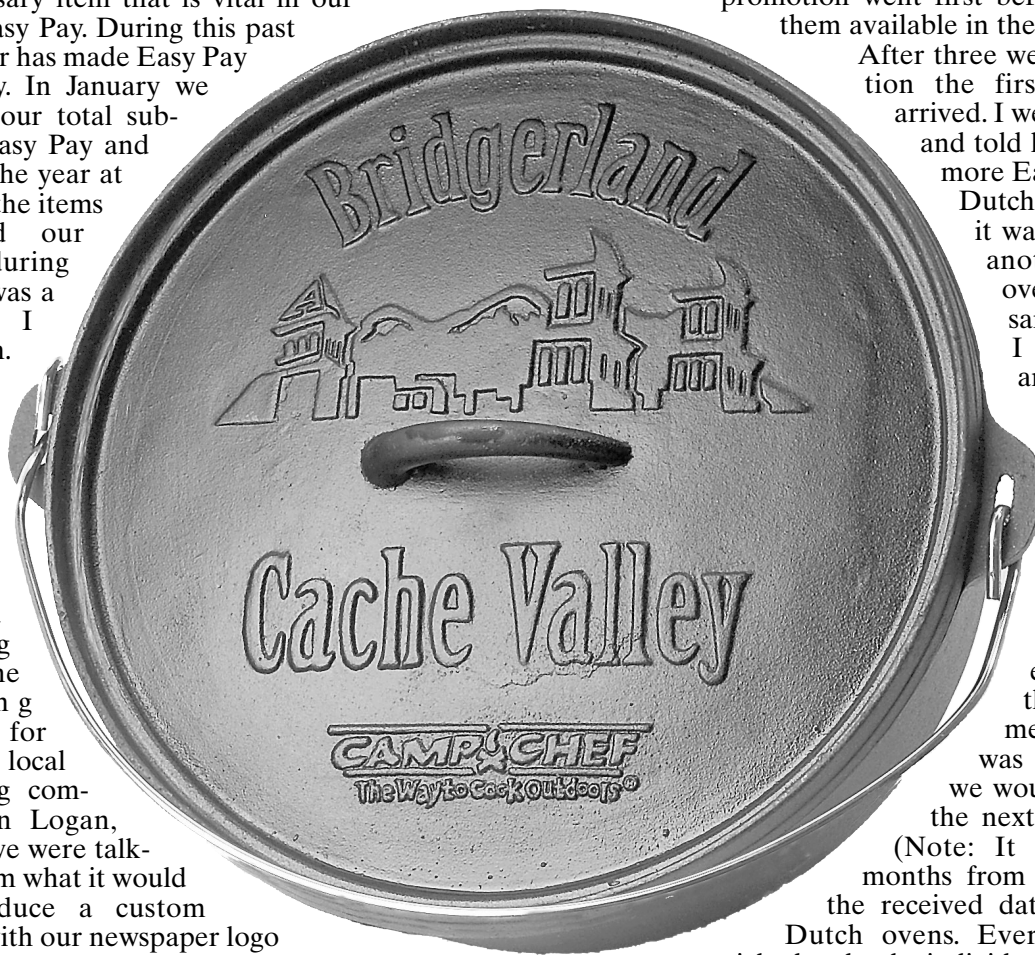
In June I was informed that our arrival date of 500 Dutch ovens would be July 1st. With that in mind I created all the promotional ads for the Easy Pay promotion. I was excited. I couldn't wait to see how this promotion would go over. Once the ads started in the newspaper, the phones started to ring. I even had outside businesses who wanted to just sell the Dutch oven in their stores. I informed them that I wanted to see how the Easy Pay promotion went first before I would make them available in the store.

After three weeks of this promotion the first major problem arrived. I went to my publisher and told him that I had sold more Easy Pays than I had Dutch ovens and asked if it was possible to order another 500 Dutch ovens. He still had the same question, could I sell all the ovens, and I informed him that the promotion was just under way and looked like it would continue.

So we had to inform a lot of folks that the promotion exceeded expectations and that a second shipment of Dutch ovens was on order and that we would call them when the next shipment arrived. (Note: It takes about two months from the order date to the received date on an order of Dutch ovens. Every Dutch oven is picked up by the individual at the newspaper.

We did not ship a single Dutch oven to a new Easy Pay customer.)

To recap my crazy idea, over 950 folks have taken advantage of our Easy Pay Dutch oven promotion. Now I'm looking for something else that is unique to offer for the next group of Easy Pay conversions. The push for more Easy Pay is a necessary step in growing circulation – our home delivery circulation finished 1.5% over last year. I truly believe the odds are in our favor if we continue to grow Easy Pay.



President's Message - Continued from page 1

escalating gas prices have negatively impacted carrier profits. A win-win scenario for all involved, providing there is a relationship built on trust.

If there is one thing I could wave my magic wand and make happen in the newspaper world today, it would be to build trust in each other by getting everyone to realize we are all in the same boat. The headlines scream it as I mentioned in my last article – we're all competing for eyeballs and people's time, but not so much with each other as with the Internet, network and cable TV, iPods and MP3 players. We're all working to build newspaper readership and get people to realize a need for our products as sources of information and textbooks for the adult mind. I would far rather have someone read a "competitor's" newspaper and not mine than to read none at all and claim to get all the news they need from the Internet (or the Daily Show).

And that is one area where organizations like NICE have the most impact - networking. They give us an arena in which to build relationships, share ideas (and legally steal a few), cultivate creativity and stretch our own limits and imaginations. They facilitate growth and provide idea sources. Chances are good that there are a dozen or more professionals in our group alone who have faced or are facing the same issues and challenges you are. Why not capitalize on the collective creativity

and experience of the group and not reinvent the wheel yourself?

After all that's the mission, the charter of this organization. I have not been a member of the group long enough to know when (I'm sure someone else does know), but sometime in the history of NICE the mission was spelled out: "The object of this association shall be the mutual enlightenment of its members and the furtherance of the best interest of the circulation department of the newspapers with which they are connected."

That legacy began more than 80 years ago. The challenge to us from those who have gone before is to live the mission statement and grow the cooperative efforts, collective knowledge and creativity of the group. Therein lies the synergy we all can harness to strengthen our industry and ensure our collective future success.

HOW TO REACH US

Secretary/Treasurer:

Dale Irvine
PO Box 778
La Conner, WA 98257
360-466-2006
nice@galaxy.net.com

President:

Rick Sass
USA Today
425-562-1593
rsass@usatoday.com

NICE, PO Box 778
La Conner, WA 98257

Montana

Alberta

Oregon

Alaska

Utah

Idaho

Montana

Washington

Saskatchewan

British Columbia

