



U.S. Department of Justice

Antitrust Division

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 10 1993

William T. Lifland, Esquire
Cahill Gordon & Reindel
80 Pine Street
New York, NY 10005

Dear Mr. Lifland:

This letter responds to your request on behalf of the Newspaper Association of America (NAA)¹ for a statement, pursuant to the Department of Justice's Business Review Procedures, 28 C.F.R. § 50.6, of the Department's present enforcement intentions regarding NAA's proposal to form the National Newspaper Network (NNN) to sell newspaper advertising space in a network of newspapers at a single price to national advertisers.

You have represented that NNN is being formed to promote newspaper advertising as an effective media for national advertising campaigns. At present, there is little national advertising placed in newspapers (less than five percent) and the trend is downward. You believe this situation has been caused, at least in part, by a perception that newspapers have limited usefulness in creative campaigns focusing on product image, and are inefficient for national campaigns due to the need to purchase advertising space from a number of newspapers nationwide. By forming a joint venture to create a newspaper network that can offer advertisers newspaper space nationally at a single price, you hope to increase the newspapers' ability to compete with other media and reverse the current downward trend in national advertising for newspapers.

Participation in NNN would be open to all newspapers, whether daily or weekly. Membership in NAA would not be required. Participation in NNN would be non-exclusive; participants will be free to solicit advertising directly, through representative firms, or through other networks. Participants in NNN will agree, for a three year period (subject to extension for a maximum of three additional years), to support

¹ NAA is a trade association that represents daily and weekly newspapers throughout the United States.

the program by running ads in accordance with the commitments made by NNN. Each participant will be compensated by a formula-determined share of NNN's revenues from ads sold, less applicable expenses.

We further understand that NNN would be operated by an executive sales director who would be assisted by a number of sales executives. An advisory committee, composed of newspaper industry representatives, will assist. Their mission would be to approach national advertisers that do not now place significant national advertising in newspapers to persuade them of the value of newspaper advertising. You have indicated that the following industries will be targeted: toiletries, food products, medical products, household supplies, alcoholic beverages, and automobiles. In general, these industries devote over 90 percent of their national advertising dollars to media other than newspapers.

The executive sales director will determine the price of the packages offered to national advertisers; the advisory committee will not participate in, review or approve these prices. Participating papers will have the opportunity to designate limits on their participation, including establishing a price floor, below which they will not accept advertising. These price floors will be kept confidential by the executive sales director and will not be communicated to other papers or to the advisory committee.

We further understand that NNN will not negotiate proposals for single newspapers or markets. Thus its role will be limited to national advertising, and it will not play any other role in any newspaper's retail or classified advertising sales efforts.

After careful consideration of the information you have provided, supplemented by our independent inquiries, the Department of Justice has determined that it has no present intention to challenge the proposed activities of NNN on antitrust grounds. While the Department would be concerned if the effect of the proposed venture would be to increase the likelihood that NNN or any of its members could successfully coordinate their actions resulting in higher prices charged to advertisers, the Department has concluded that the proposed venture is unlikely to have such effects.

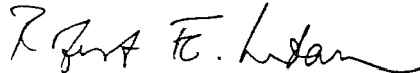
NNN's price-setting function is reasonably ancillary to its ability to offer advertisers the opportunity to customize their messages for nationwide or specific regional audiences. Also, NNN's central sales and billing services will enable national advertisers efficiently to deliver the same message through newspapers in as many local markets as they choose. This is a new service that no individual newspaper acting unilaterally can offer to advertisers. NNN may, therefore, have the procompetitive benefit of enabling newspapers better to compete with other media for national advertising.

Furthermore, NNN appears to be structured so as to safeguard against unnecessary coordination by competing newspapers by restricting rate information to the executive sales director who is required to keep each member's rate floors confidential. Moreover, NNN will not bind its members with exclusive contracts. Members are free to solicit or accept advertising outside of the joint venture. Finally, the industries targeted by NNN spend less than ten percent of their advertising dollars on newspapers, indicating that they have ample alternatives to newspapers and that NNN would not likely be able to exercise market power.

This letter expresses the Department's current enforcement intentions only. In accordance with our normal practices, however, the Department remains free to bring whatever action or proceeding it subsequently concludes is required by the public interest if actual operation of any aspect of the program proves anticompetitive in purpose or effect.

This statement of the Department's enforcement intentions is made in accordance with the Department's Business Review Procedure, 28 C.F.R. § 50.6. Pursuant to its terms, your business review request and this letter will be made available to the public within thirty days of the date of this letter unless you request that part of the material be withheld in accordance with Paragraph 10(c) of the Business Review Procedure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert E. Litan".

Robert E. Litan
Acting Assistant Attorney General