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CAPITAL RESEARCH CENTER

Foundation Watch

Bailing Out the Press: Can Non-Profit Status Save American Newspapers?

By Tim Cavanaugh

***Summary**: Could a bailout of the newspaper industry be on its way? A new Senate bill would offer financially struggling newspapers non-profit status in order to save investigative journalism. Critics say it probably won't work, gives nonprofit media a tax advantage, could subject the free press to IRS oversight, and could open the door to more serious government interference in the media. But when has that ever stopped a crusading politician?*

Newspapers are in danger of falling off a financial cliff. Since late last year newspaper owners have been shutting down city newspapers and filing for Chapter 11 bankruptcy protection to cope with acute financial distress:

* The Hearst Corporation shut down the print edition of the Seattle Post-Intelligencer and is cutting jobs at the San Francisco Chronicle.
* E.W. Scripps closed Denver's Rocky Mountain News.
* The Tribune Company, owner of the Chicago Tribune and the Los Angeles Times, filed for bankruptcy, as did the Sun-Times Media Group, owner of the Chicago Sun-Times and 58 other papers.
* Philadelphia Newspapers, owner of that city's Inquirer and Daily News, filed for bankruptcy
* Gannett Company closed the money-losing Tucson Citizen when it couldn't find a buyer.
* The New York Times Company, which owns the Boston Globe, wants that paper to find new investors to prevent cutbacks and the threat of closure. The New York Times Co. lost $74.5 million in the first quarter of this year, and nearly all of its cash on hand is earmarked to pay off debt that will come due in 2010. The Times Co. is also on the hook for a $225 million loan from the controversial Mexican billionaire Carlos Slim.
* On May 6 Avista Capital Partners, owner of the Minneapolis Star-Tribune informed its investors that it was writing down the value of its investment by 75 percent. Avista paid $530 million to buy the paper


Both of Maryland's Democratic senators, Benjamin Cardin (left) and Barbara Mikulski (right) favor the proposed "Newspaper Revitalization Act," which could change the structure of newspaper businesses and remake how the public sees the purpose and function of news media.

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from the McClatchy Newspapers in early 2007.

* The McClatchy chain, which still owns the Miami Herald, Sacramento Bee and 28 other newspapers, has a $2.2 billion debt, which is "becoming unsustainable," according to Moody's, which reduced its bond rating to "Caa" or junk bond status.

With their business models under threat from rapid technological change and an extended recession cutting into their advertising revenues, newspapers are struggling to survive and many of their supporters worry that they may become an endangered species. Liberal politicians and policymakers, in particular, have good reason to worry. For years they have enjoyed largely favorable newspaper editorials and press coverage of their announcements and policy positions, so it's only natural that some are now coming to the newspapers' rescue, attempting to offer the journalistic equivalent of the Endangered Species Act.

"The Newspaper Revitalization Act"

The most intriguing assistance was recently advanced by Sen. Benjamin L. Cardin (D-Maryland), who has introduced a bill to allow newspapers to incorporate as not-for-profit businesses under the Internal Revenue Code's section 501(c)(3), a designation intended for public charities.

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In a Washington Post op-ed, Cardin argued that his proposal was necessary.

> *…to help our disappearing community and metropolitan papers by allowing them to become non-profit organizations. My goal is to save local coverage by reporters who know their communities, work their beats and dig up the stories that are important to our daily lives. Today, newspapers do that job; all other outlets – TV, radio, blogs – feed off that base. My bill would allow newspapers – if they choose – to operate under 501(c)(3) status for educational purposes, similar to public broadcasters.*
>
> *Under this arrangement, newspapers would not be allowed to make political endorsements but would be permitted to freely report on all issues, including political campaigns. They would be able to editorialize and take positions on issues affecting their communities. Advertising and subscription revenue would be tax-exempt, and contributions to support coverage or operations could be tax-deductible.*

Cardin's bill S. 673, the proposed "Newspaper Revitalization Act," could change the structure of newspaper businesses and remake how the public sees the purpose and function of news media. The bill is presently before the Senate Finance Committee, and Sen. Barbara Mikulski (D-Maryland) has joined Cardin as a co-sponsor.

What will the proposal accomplish? Not much, according to some analysts. "There are only about 300 individually owned papers in the United States," newspaper industry analyst John Morton said in an interview. "Those are usually family owned, with the family's wealth tied up in the papers. There are just not going to be many family owned papers for which this would make sense." Cardin acknowledged the legislation probably would have a limited impact on the newspaper industry's troubles, telling a Senate session, "This is not going to be an option that a lot of papers will choose."

However, Alberto Ibargüen, president and CEO of the liberal John S. and James L. Knight Foundation in Miami, touted the value of the Cardin plan at a May 6 hearing on the future of journalism chaired by Sen. John Kerry (D-Massachusetts). "Congress might also seek to make easier or more inviting the creation of not-for-profit local news organizations, or the conversion of for-profit news businesses into non-profit, community-based, mission-driven organizations," he said, according to written testimony.

Ibargüen admitted Cardin's proposal was no panacea but said it would "almost certainly help [traditional news operations] extend their useful life until we, as a society, figure out what will be next."

Newspaper owners and newspaper unions agree that the Cardin proposal might be a useful stop-gap measure. A spokesman for the Newspaper Association of America, which represents the $47 billion newspaper industry and more than 2,000 newspapers, said the bill "recognizes changes in the law might be necessary to provide a boost to newspapers trying to weather this difficult economic period."

The union that represents 34,000 print journalists, the Newspaper Guild, a branch of the Communications Workers of America, also supported the measure. "Options are good," Brent Jones, Guild vice-chairman at the Baltimore Sun, told Southern Maryland Headline News. "Certainly, at this juncture, anything that would help newspapers to thrive we would support."

Will Nonprofit News Produce More Big Government Advocacy?

While newspapers themselves show little interest in becoming nonprofits, the proposal is generating far more excitement in the world of liberal foundation philanthropy. Foundations see new opportunities for policy-oriented grantmaking. If daily newspapers can become nonprofits, it's possible they will become vocal nonprofit advocates for the importance of nonprofit advocacy.

At the May 6 Senate hearing Arianna Huffington, creator of the liberal Huffington Post blog site, endorsed creating new models of nonprofit journalism. Although she suspected "the obituaries for newspapers we're hearing are premature," she predicted new journalistic hybrids will emerge. They will not only combine the traditional newspaper with interactive online features, but they also can take advantage of nonprofit grant providers such as her own Huffington "Investigative Fund," which will start off with a $1.75 million budget, much of it coming from the Atlantic Philanthropies headed by Gara LaMarche, a former officer of George Soros's Open Society Institute.

Underlying liberal foundation support for freelance investigative journalists is the hope that a financially struggling mainstream media will be eager to publish their aggressive—and left-wing—news stories. At the Senate hearing Huffington complained that the press must learn to speak truth to power. She warned that too many journalists report issues like the Iraq war or global warming by giving balanced coverage to both sides of an issue—the truth and the conservatives' big lie.

Huffington predicted that the new model of nonprofit investigative journalism would dovetail nicely with "citizen journalism," the notion that newspapers should encourage politically-active citizens to investigate and document their own local news stories to spur social reform. This concept, sometimes also called "civic" or "public" journalism, has received support from the Pew Charitable Trusts. Many professional journalists worry that it will just produce more politically-biased advocacy writing and abandon the goal of balanced and objective news reporting.

Could nonprofit news also subject the news media to government oversight? That concern is also on the minds of many newspapers. "I think it [the Cardin bill] really puts the role of censor or critic with the IRS," George Rahdert, legal counsel for the St. Petersburg Times told a reporter for Southern Maryland Headline News. "So the IRS would be able to say, 'This isn't fair or critical reporting.'"

And what would be lost when a nonprofit newspaper is prohibited from endorsing candidates or legislation, as the Cardin bill proposes? "It would de-claw participating newspapers, which couldn't endorse candidates or freely question the party in power," Ken McIntyre, a media and public policy fellow at the Heritage Foundation told Fox News.

Conservative critic Tom Blumer, a contributing editor at media watchdog site NewsBusters.org, is suspicious of Cardin's motives and characterizes the proposed tax subsidy as a newspaper industry bailout. In a blog post he wrote that Cardin's bill, if enacted, would allow the Democratic Party to use the power of tax-exemption "to subsidize and save [newspapers] – while simultaneously turning them into house organs for his party."

Blumer continued, "Over a longer period, it seems to me that what would develop out of this would be any number of single-city NPRs that would attempt to control the tone of, and access to, political coverage in their respective locales. They would give perfunctory lip service to token print operations, while having large and unfair cost advantages over their taxpaying for-profit competitors."

Even some on the left are skeptical of the Cardin proposal. "The newspaper is dying," writes the Maryland blogger Oliver Willis, who works as a web producer for the left-wing Media Matters for America. "It is dying due to its failure to innovate. It is also dying due to its inability to put the interests of its readers above its advertisers, not realizing that a milquetoast paper afraid to upset the apple cart will turn people off and lead to lowered ad revenues."

Whose Fault?

It is important to note that the newspapers' own mismanagement has caused many of its financial troubles. The New York Times, for example, spent $640 million in 2007 constructing an elaborate 52-story headquarters designed by architect Renzo Piano, featuring a 300-foot decorative mast on the roof. The company has since been forced to sell half the new building for $225 million in a lease-back deal with the investment management firm W.P. Carey.

The Los Angeles Times still employs more than 600 editorial employees, at salaries far above the industry average, to put out a paper that rarely runs more than 100 pages in its weekday editions. The paper still boasts such extravagances as a "test kitchen" employing three cooks to prepare food for reviews in the paper; it also maintains many national and international bureaus though its coverage of local news is skimpy and it's often scooped by bloggers and the much smaller Los Angeles Daily News on L.A. and California political stories.

The business side of the paper is notoriously lethargic. This writer (a former editor, reporter, editorial writer, and web editor at the L.A. Times) recently canvassed every store manager along Larchmont Boulevard – a three-block stretch of high-end retail shopping in one of the city's most attractive areas. None had ever been approached by an L.A. Times ad sales representative. (One national chain store on the street does advertise in the Times as part of a bundled insert package.)

Failure to adapt to the Internet is often cited as a reason why newspapers are failing. This is not entirely fair: news organizations have developed online products for more than 25 years and newspapers have vastly increased their online readership with nytimes.com, sfgate.com (the San Francisco Chronicle site), and others among the most heavily trafficked addresses (known as URLs—uniform resource locators) on the web. But it is accurate to say that newspapers have tended to limit their web offerings to exact or only slightly edited versions of their print stories. A bigger problem is print journalism's refusal to recognize that online advertising revenues will not support the bloated structures developed in the print era.

Many newspapers have tried to make web-users pay to gain access to their articles online, but almost all their efforts have failed. In 1995, Knight-Ridder's New Century Network organized the major news companies, including Times Mirror, Advance, Cox, Gannett, Hearst, Washington Post and the New York Times Company, to create an online news aggregator. The consortium was canceled in 1998 after losing $25 million. In 2005 the New York Times tried to make online readers become paid subscribers to have access to its popular opinion columnists. This "Times Select" project was a disaster and was abandoned two years later in favor of free access. The Wall Street Journal's paid access system is sporadically applied, and its opportunity cost to the company is questionable. It is unclear whether paid online subscriptions earn the paper more than it would earn providing advertising-supported free access. Nonetheless, wsj.com remains the industry standard for paid newspaper web content. Many papers still require payment for older articles, though given the costs of online archiving, many observers believe newspapers could make more money by leaving their archives open and collecting small but steady ad revenue.

Periodically newspapers revisit the idea of putting up a firewall between web-users and their online content. The Associated Press recently threatening to sue Google over its links to AP content. Los Angeles Times columnist Tim Rutten and others have argued that all papers should be allowed to jointly charge for access to their content and be exempt from the antitrust laws. However, these efforts have not succeeded in the past. Moreover, "pay-walling," as it's called, is contrary to the perceived civic duty of ad-supported newspapers to be read, discussed and circulated as widely as possible.

The Cardin bill, which responds to hard times for the nation's major city dailies, won't solve these problems. Senator Cardin himself says big city papers are least likely to take advantage of his proposal to give newspapers 501(c)(3) tax-exempt status. "You hear about papers in trouble," industry analyst Morton said in an interview. "But there are 1,422 smaller papers in this country. Their average circulation is under 30,000. Those smaller papers aren't doing nearly as badly as big city papers. Sure, the small dailies in Michigan are getting hammered, because everything in Michigan is getting hammered. But those small dailies are not on a precipice."

Risks and Rewards of 501(c)(3) Status

Newspapers worry that there is no legal bright line on non-profit eligibility. The Cardin bill attempts to clarify the status of papers seeking 501(c)(3) status.

Under section 501(c)(3) of the IRS code many kinds of organizations are eligible for non-profit status, including "Corporations ... organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes ... no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation ... and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

This reasoning is somewhat circular. For instance, current law allows a publishing organization to qualify as tax-exempt if the content of its publication is educational; its methods are "generally accepted as educational in character;" and its manner of distribution is "distinguishable from ordinary commercial publishing." In at least one case the IRS ruled that a non-profit newspaper did not qualify for tax exemption because its methods of "preparing and publishing a newspaper, soliciting advertising, and selling subscriptions to that newspaper in a manner indistinguishable from ordinary commercial publishing practices." The IRS has in at least one case revoked the tax exempt status of a publication (Fides Publishers) as its business grew and became more lucrative.

Sec. 501(c)(3) allows a broad range of publications to incorporate as non-profits "Opinion" journals such as the libertarian Reason, leftwing Mother Jones, and the liberal New Republic and others have 501(c)(3) exemption. (National Review, by contrast, is a for-profit entity though hardly profitable.) As nonprofits, these magazines are required to stop short of endorsing candidates or legislation, though they freely argue about issues and candidates. No one doubts where they stand on issues. They need only avoid the magic words "We endorse…" to retain their tax exemption.

There are currently no non-profit daily newspapers, although a few for-profit papers are owned by non-profit trusts. For instance, the for-profit St. Petersburg Times is owned by the nonprofit Poynter Institute, and profits from New Hampshire's (Manchester) Union-Leader support a journalism school. The 101 year old Christian Science Monitor is a church-affiliated tax-exempt newspaper, but this year the print edition became a weekly and the daily edition appears only online.

Will It Play in Peoria?

The 154 year old Peoria, Ill., Journal Star (daily circulation: 65,000) has been mentioned as one paper that might go nonprofit under the Cardin proposal. Once locally-owned and employee-owned, it is now owned by Fairport, New York-based GateHouse Media. GateHouse is heavily leveraged and trades in the "Pink Sheets" after being de-listed by the New York Stock Exchange last year. GateHouse needs to sell assets, and community leaders and the union are eager to find a new owner for the paper.

The union calls the non-profit approach a "model of last resort." "[Non-profit status] would open a huge can of worms," Newspaper Guild leader Jennifer Towery said in an interview. "You have to meet a very high standard of community service as a non-profit, including demonstrating that you have an educational purpose. So that raises the question: what's the educational purpose of the comics?" Said Towery, "You've got to be worried as a journalist about the government funding the watchdog."

Towery prefers to have the paper get "L3C" status, or low-profit limited liability. This novel hybrid designation allows an LLC to attract foundation philanthropy in ventures designed to provide a social benefit. But the paper would still be taxed and remain free to distribute profits to owners and investors. The primary advantage to both the newspaper and philanthropic foundations is that it could receive grants from them.

Some Potential Benefits of Nonprofit Status

For all its potential problems Cardin's Senate Bill 673 could carve out an interesting niche in the troubled newspaper business. Considering the steep recent decline in both print and online advertising, a flourishing non-profit news business could allow newspapers to deemphasize the search for ad revenue – a possibility suggested by the experience of church-related publications. Tim Walter, executive director of Catholic Press Association, has noted that secular papers draw 60% to 70% of their revenues from advertising (other sources put that figure closer to 80%), while diocesan papers receive only about 25% to 32% of their revenues from advertising, with the rest coming from circulation and contributions. In fact, S. 673 specifically limits the percentage of advertising a qualifying paper can carry. It specifies that "the space allotted to all such advertisements in such newspaper does not exceed the space allotted to fulfilling the educational purpose of such qualified newspaper corporation." Would some newspapers find this advantageous?

This trend, however, moves at cross purposes to one of the main selling points of the bill – that it will help preserve investigative journalism. As Cardin wrote in his op-ed:

How can we forget the role newspapers played in uncovering the Watergate and Enron scandals or the AIG bonus debacle? News stories, reported by journalists, often bring to public attention decisions and actions that affect all of us. While the world has increasingly fast access to news, one fact remains unchanged: When it comes to original, in-depth reporting that records and exposes actions, issues and opportunities in our communities, nothing has replaced newspapers. Most, if not all, sources of journalistic information, from Google to broadcast news or punditry, gain their original material from the laborious and expensive work of experienced newspaper reporters diligently working their beats over the course of years. Not hours, years.

Investigative journalism is expensive to pursue, especially because some investigations reach a dead-end, and it attracts fewer readers than, say, the sports page. Becoming a 501(c)(3) non-profit does nothing to change these economic facts of life. In fact, the Cardin bill's limits on advertising could worsen newspaper financing.

Though Towery and others worry that becoming a nonprofit increases the threat of government oversight, the history of opinion journalism argues otherwise. Magazines like Reason and Mother Jones have combined free-wheeling investigations with outspoken advocacy with few constraints. Non-profit journalism can succeed—but you have to have donors who are willing to pay for it.

One example of nonprofit journalism is the group ProPublica, founded in October 2007. It claims to generate hard-hitting investigative journalism by pursuing stories that have "moral force." Paul E. Steiger, a former managing editor at the Wall Street Journal, is the organization's president and editor-in-chief.

Steiger has said ProPublica will "shine a light on exploitation of the weak by the strong and on the failures of those with power to vindicate the trust placed in them. We will be non-partisan and non-ideological, adhering to the strictest standards of journalistic impartiality and fairness."

What's left unsaid in this manifesto is that the 501(c)(3) ProPublica is funded by a reported grant of $10 million aimed at tightening the left's grip on the media. Donors Herb and Marion Sandler are members of George Soros's liberal donor collaborative, the Democracy Alliance, which has no shortage of money to fund projects it deems worthy of support. (For more information, see "ProPublica: Investigative Journalism or Liberal Spin?" by Cheryl K. Chumley, *Foundation Watch*, May 2009.)

Conclusion

It's noteworthy that the "newspaper crisis" focuses on the producer not the consumer of news. Consumers are better served than ever before. Today's news audience has RSS feeds (RSS stands for "Really Simple Syndication"—a means of distributing content online), email lists, customized news sites, social networking sites, micro-blogs and other news sources, all growing rapidly. Conservatives, gloating over the downfall of the print media, seem happy with Fox News, World Net Daily, the Drudge Report website, conservative talk radio and the rising tide of right-leaning political bloggers. A common objection to this trend is that these sources repeat the news, deliver junk news and spout opinion; they don't provide in-depth journalism. But this objection is not well supported and depends on biased definitions of "quality" news. The crisis in news is a crisis only for the legacy news media—news assemblers that put their findings on paper once a day.

Nevertheless, the crisis is a real one. Newspaper ad revenues dropped by 9.4% in 2007 – a record decline then topped by a 17.7% decline in 2008. Perhaps the newspaper business will recover when the economy does. But even as the non-paying online news audience soars, print circulation is on a steady, non-cyclical decline, which ensures that any recovery in the newspaper business will be to a much lower base.

Should government care? Many varieties of legacy media—legitimate theater, the fine arts and orchestral performance—endure, sustained in large part by private tax-exempt donor contributions to non-profit cultural organizations. They are by no means central to Americans' public life, but they continue to exist, imposing at most a token burden on taxpayers, especially when compared to the massive bailout packages given to the financial and automobile industries.

This is both the promise and the problem with proposals like Cardin's. To sustain daily newspapers without taxpayer funding, he wants to offer them non-profit status and antitrust exemptions. It's hard to object – though one wonders why newspapers are entitled to such benefits. The assumption that newspapers are a "public trust," "democracy's lifeblood," "a great community talking with itself," etc., is too easily made and needs closer scrutiny.

Should the Cardin bill pass, it will probably have a negligible effect on the market Cardin aims to help. Nor will it prevent daily newspapers from losing their once-powerful influence over American politics and culture. But non-profit status could help a few newspapers serve niche markets. It remains to be seen which papers, if any, will be interested.

Tim Cavanaugh is a writer based in Los Angeles.

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PhilanthropyNotes

Even as Nevada and Pennsylvania authorities were charging **ACORN** with election fraud, House Judiciary Committee chairman **John Conyers** (D-Michigan) was reneging on his promise to hold hearings into the radical group's many misdeeds. In March Conyers called the allegations "a pretty serious matter" and urged Rep. **Jerrold Nadler** (D-New York), to hold a subcommittee probe of ACORN, but on May 4 Conyers announced that "a hearing on this matter appears unwarranted at this time." Conyers had heard testimony that the nonprofit group violated a host of tax, campaign finance, and other laws.

Rosa Brooks, a radical law professor who shares **Michael Moore**'s views on the War on Terror and the Islamo-fascist threat, has been installed by President **Barack Obama** as advisor to **Michelle Flournoy**, the Undersecretary of Defense for Policy. Brooks, who has argued that there is no real terrorist threat to the U.S., is in a position to have an impact on U.S. national security policy. Putting Brooks in the Pentagon "is **like Lyndon Johnson** making **Jane Fonda** a senior adviser on Vietnam," the Washington Times editorialized. Brooks is a former special counsel to the president at **George Soros**'s **Open Society Institute**. In a 2006 Los Angeles Times column, Brooks described President **George W. Bush** as the nation's "torturer-in-chief." Two weeks before Election Day 2008, Brooks opined that the Republican Party was the bastion of "paranoid, rage-driven, xenophobic nuts."

The left-wing **Robin Hood Foundation**'s spring fundraising gala in New York City, whose spare-no-expense festivities normally serve as an inspiration to other charity benefit organizers, was scaled back last month, the New York Times reports. Past attendees would pledge tens of millions of dollars to have lunch with celebrity chef **Mario Batali**, but this year the centerpiece was George Soros's announcement of a simple $50 million challenge grant for poverty relief. NBC newsman **Tom Brokaw** sits on the board of the liberal foundation that has given ACORN $821,000 in recent years.

Democracy Alliance, the left-wing donors' collaborative whose most famous member is George Soros, has welcomed a new board member, **Ted Trimpa**. An Atlantic magazine article from 2007 describes Trimpa as "an acerbic lawyer and former tobacco lobbyist," and as "Colorado's answer to Karl Rove." Before attending law school, Trimpa was a legislative aide for U.S. Sen. **Nancy Kassebaum** (R-Kansas).

The late hotel magnate **Leona Helmsley** wanted the bulk of her estate to be spent on the care and welfare of dogs, but her trustees had other ideas. They have decided to give only $1 million of the $5 billion estate for canine care. "This is a trifling and embarrassingly small amount," according to **Wayne Pacelle**, president of the **Humane Society of the United States**. "Mrs. Helmsley's wishes are clearly being subverted." Although we rarely agree with Pacelle or his group, he may have a point in this case.

President Obama has nominated **William Corr**, executive director of the **Campaign for Tobacco-Free Kids**, to be the second-highest ranking official at the Department of Health and Human Services. The Campaign for Tobacco-Free Kids was founded in 1996 with initial funding from the **Robert Wood Johnson Foundation**.

Goldman Sachs WATCH

Charles E. F. Millard, who ran the Pension Benefit Guaranty Corp. in the final months of the Bush administration, asked an unnamed Goldman Sachs executive to help him get a job, a move a government report said was a "clear violation" of PBGC rules. The request by Millard raised an ethics red flag, according to a May 15 Boston Globe report, because Goldman had been hired to oversee a $700 million portion of PBGC funds. The Globe reported that the Goldman executive "responded that he had talked with a person at another firm 'who really likes you and if times were better he would have hired you already.'" An inspector general's report found that there were 29 e-mails documenting the effort of a Goldman official to help Millard "in his search for employment." Goldman declined comment, but BusinessWeek reported that a criminal investigation into some of the allegations in the report is expected to begin soon.

In a separate development, Goldman agreed to pay out $60 million as a settlement with the state of Massachusetts for the role it played in the subprime mortgage collapse. About $50 million of the money will go to homeowners having difficulty paying off their subprime mortgages. Goldman did not originate the mortgages but securitized the risky home loans. "Many of these loans were unfair; they were destined to fail," said the commonwealth's attorney general Martha Coakley of the first such settlement ever with a securitizer of subprime mortgages.