



CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION
CNPA Services, Inc.

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April 29, 2009

Honorable Joel Anderson
California State Assembly
State Capitol, Room 2130
Sacramento, CA 95814

RE: Oppose AB 255 (Anderson)

Dear Assemblyman Anderson,

I regret to inform you the board of directors of the California Newspaper Publishers Association voted at its quarterly meeting last week to oppose your AB 255, which would prohibit an operator of a commercial Internet web site or online service that makes a virtual globe browser available to the public from providing aerial or satellite photographs or imagery of places in this state that have been identified on the Internet Web site by the operator as a school, place of worship, or government or medical building or facility unless those photographs or images have been blurred. Your bill would also prohibit that operator from providing street view photographs of those buildings and facilities.

CNPA views this bill as an impermissible infringement on the American freedom to photograph and to publish (or post) photographs. If government can impose these restrictions on Google's right to post photographs of what would likely be millions of public and private buildings, we see no reason it would not also be able to prohibit publication in a California newspaper of a photograph it considers "sensitive." We view the bill as an incredibly broad prior restraint of speech in violation of the First Amendment and the California Constitution. Even in cases of national security, government restrictions on the publication of a specific fact, document or photograph would only be theoretically permissible in situations in which the publication would cause "grave damage," which is "direct, immediate and irreparable." (See, *New York Times Co. v. United States*, 403 U.S. 713 (1971), also known as the Pentagon Papers case.)

AB 255 would also seem to impermissibly discriminate against a small minority of First Amendment speakers. While Google would be prohibited from posting a non-blurred street view of the State Capitol Building, the Capitol's basement bookstore would be free to continue to sell an un-blurred version to all comers.

Because AB 255 would impermissibly interfere with the American freedom to take, publish and post photographs, CNPA must respectfully oppose it.

Sincerely,

Thomas W. Newton
CNPA General Counsel

cc: Anthony Allegretti, CNPA President, President/CEO, MainStreet Media Group, Gilroy
Harold W. Fuson, Jr., CNPA Governmental Affairs Committee Chairman, Executive V.P., Copley Press, Inc.
Jack Bates, CNPA Executive Director
James W. Ewert, CNPA Legal Counsel
Peter Scheer, Executive Director, California First Amendment Coalition
Terry Francke, General Counsel, Californians Aware
Dana Mitchell, Counsel, Assembly Arts, Entertainment, Sports, Tourism and Internet Media Committee