

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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June 4, 2013
Start: 1:12 p.m.
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HELD AT: 250 Broadway
Committee Rm, 14th Fl.

B E F O R E:
DANIEL R. GARODNICK
Chairperson

COUNCIL MEMBERS:
Council Member Charles Barron
Council Member Leroy G. Comrie, Jr.
Council Member Julissa Ferreras
Council Member G. Oliver Koppell
Council Member Karen Koslowitz
Council Member Michael C. Nelson

A P P E A R A N C E S (CONTINUED)

Robert Bookman
Counsel
New York City Newsstand Operators Association

Lawrence Mandliker
New York Metropolitan Retail Association

CHAIRPERSON GARODNICK: Good

afternoon, everyone. Welcome to the Consumer Affairs Committee of the New York City Council. Today is Tuesday, June 4th, 2013. My name is Dan Garodnick. I have the privilege of chairing this committee. I am joined today by Council Member Karen Koslowitz of Queens. Newsstands, as we all know, are an iconic part of the New York City streetscape and a classic example of a home grown small business. As their name indicates, newsstands are primarily in the business of selling newspapers, magazines and other periodicals. However, they can also sell other sundry items as long as the price does not exceed \$5.00. Things like umbrellas, for example, something which a couple days ago we all needed in a significant degree. The list of items that can also sell explicitly excludes apparel, jewelry, hair ornaments, handbags and video cassettes, things that the Council has decided are more appropriately sold in convenience stores. We have before us today Intro 1048 sponsored by Council Member Koslowitz. Intro 1048 increases the maximum price of goods on sale at newsstands from

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2 \$5.00 to \$10.00. It's a straightforward change
3 but one that should have a great positive effect.
4 Now, newsstands will be able to sell higher
5 quality versions of products they already keep in
6 stock. They will also be able to sell useful
7 items currently disallowed because they exceed the
8 very low \$5.00 cap, things like cell phone
9 chargers, which were not widespread when that cap
10 was established in 2002. I believe that Intro
11 1048 would be a big help for these small
12 businesses and it's a common sense measure to make
13 sure that the law keeps up with the times. We
14 have a letter where which I will read into the
15 record after we hear from Council Member
16 Koslowitz, it's from DCA, and before we go any
17 further I'd like to turn the microphone over to
18 the sponsor of this very good bill that we're
19 hearing today, Council Member Koslowitz.

20 COUNCIL MEMBER KOSLOWITZ: Thank
21 you, Chair Garodnick. Proposed Intro 1048 will,
22 a, will ensure that newsstands are given the
23 opportunity to keep up with the demands of their
24 customers just as every other small business in
25 New York City. In 1991 I led similar legislation

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2 to increase the price of individual items sold
3 from \$2.00 to \$5.00. Well, that \$5.00 from 1991
4 is today's \$10.00. Items that New Yorkers are
5 asking for at newsstands are changing. By us
6 imposing the same limit from 12 years ago we are
7 prohibiting small business from just sustaining
8 themselves. This bill is an opportunity to help
9 our newsstand owners keep up with growing demand
10 for items that New Yorkers need to access fast
11 such as a phone charger, umbrella or earphones.
12 The legislation will only affect newsstands under
13 the jurisdiction of the New York City Department
14 of Consumer Affairs and will continue to exempt
15 newspapers, magazines, periodicals and prepaid
16 calling or transit cards from being included in
17 the limit. It will also continue to prohibit
18 newsstands from selling apparel, jewelry, hair
19 ornaments, handbags and video cassettes. I am
20 happy to introduce this legislation and maybe if
21 I'm here another eight years we'll increase it
22 again. Thank you.

23 CHAIRPERSON GARODNICK: Right on.
24 Thank you, Council Member Koslowitz. And I'd like
25 to note that we've been joined by Council Member

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2 Barron and Council Member Comrie. I'd like to
3 call our first panel which will consist of Rob
4 Bookman [phonetic] of the New York City,
5 representing the New York City Newsstand Operators
6 Association, and as he comes up I would like to
7 note and read for the record the letter that we
8 have here from Fran Friedman, the Deputy
9 Commissioner for External Affairs of the New York
10 City Department of Consumer Affairs dated today,
11 I'm sorry, yesterday, June 3rd, addressed to me as
12 the Chairman of this committee. Dear Chair
13 Garodnick, on behalf of the New York City
14 Department of Consumer Affairs we thank you for
15 the opportunity to comment on Intro 1048. The
16 bill would raise the cap on the items newsstands
17 are allowed to sell other than newspapers,
18 magazines, et cetera, from \$5.00 to \$10.00,
19 exclusive of tax. The Department has no objection
20 to this bill. So, as opposed to this, this is in
21 place of their presence here today so, while we
22 welcome their support or their absence of
23 objection, right, Council Member Koslowitz? And
24 with that, we will turn it over to Mr. Bookman,
25 our first witness today.

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2 MR. ROBERT BOOKMAN: Is it on
3 there? Okay. Thank you. Not used to being on
4 the same side as the administration. My name is
5 Robert Bookman. I am Counsel to the New York City
6 Newsstand Operators Association, the trade group
7 which has represented small mom and pop sidewalk
8 newsstands for over 25 years now. Sidewalk
9 newsstands are an iconic symbol of New York City
10 streetscapes. There is hardly a motion picture
11 set in New York that does not have a scene of the
12 Statue of Liberty and a street newsstand. But
13 they are much more than a romantic backdrop. They
14 are one of the last bastions of sellers of First
15 Amendment materials, our daily newspapers and they
16 are readily available to the fast paced New
17 Yorkers and street loving tourists alike. It is
18 no secret that print newspapers are facing hard
19 times. These sidewalk newsstands remain very
20 important retail outlets for them, perhaps now
21 more than ever. And historically these stands
22 have provided a wonderful entrepreneurial
23 opportunity for our city's have nots. Once upon a
24 time that was blind newsstand operators, back in
25 the day when they had no other chances to make a

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2 living and there were no disability laws. Then
3 disabled veterans, when they could not get a job
4 elsewhere. And more recently, new immigrants
5 trying to make the American dream their own. And
6 we have a number of those newsstand operator
7 recent immigrants here today. I would say that
8 these public benefits are more than a fair
9 exchange for a small piece of sidewalk averaging
10 only about 55 square feet each. But their numbers
11 have dwindled over the decades for many reasons
12 from a high of almost 1,500 in the 1940's, the
13 heyday of newspapers, to only about 300 today. We
14 must work together to preserve the remaining
15 newsstands just as previous Council's have done n
16 various ways before you. Ensuring a modicum of
17 profitability is a very important means to that
18 end. Which brings me to Intro 1048. The last
19 tiem sidewalk newsstands got a raise was back in
20 2002, 11 years ago. In fact, as I recall, it was
21 the Mayor's first bill signing. That was a long
22 time ago in any economy, especially a difficult
23 one. That raise helped stabilize the number of
24 sidewalk newsstands without any negative impact on
25 nearby businesses, a fear that was raised then and

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2 turned out to be unfounded. But, that raise is
3 outdated and we are long overdue for an increase
4 in the price we can sell non periodical items for.
5 Items we were able to sell for \$5,00 in 2001 have
6 increased in price and we can no longer sell them.
7 Examples include camera batteries, large packs of
8 candy, street maps, and tourist guidebooks.
9 Moreover, the times have changed and we need to
10 keep up with the demand from tourists and New
11 Yorkers on the go who ask for such items as phone
12 chargers, earphones and sunglasses. And it would
13 be nice to be able to sell an umbrella that lasts
14 for more than one use. This increase will do all
15 of that and keep newsstands open, it is that
16 simple. We urge your support and ask for quick
17 passage of this bill.

18 CHAIRPERSON GARODNICK: Mr.

19 Bookman, I just want to see if you can confirm for
20 us that an umbrella sold between \$5.00 and \$10.00
21 will, in fact, last for more than one use.

22 MR. BOOKMAN: Yes, we can confirm
23 that. [laughter]

24 CHAIRPERSON GARODNICK: Okay,
25 excellent. Thank you. I don't think that there

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are any questions for you. I think this is a rather straightforward issue.

MR. BOOKMAN: Well, we hope so and so, with that, maybe it'll become more complicated. We're going to hear from the next panel but at the moment I think we are good. So, we will excuse you.

MR. BOOKMAN: Thank you very much.

CHAIRPERSON GARODNICK: And thank you or your testimony and with that, we're going to call up Mr. Lawrence Mandliker [phonetic] of NYMRA. And so, Mr. Mandliker, welcome. And as soon as you are settled it looks like that microphone is, in fact, on. So, I think you should be all set.

MR. LAWRENCE MANDLIKER: Testing?

It is. Good afternoon, thank you for the opportunity. My name is Lawrence Mandliker. I am testifying on behalf of New York Metropolitan Retail Association, known as NYMRA. Our customers are national chain retailers operating in the City of New York, among them is the National Association of Chain Drugstores. So, if I could divert from my written testimony for a second.

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2 You're sitting there and you're saying, hey,
3 Mandliker, what are big box retailers and national
4 chain drugstores have a, how could they have a
5 problem with this simple bill? I'm going to tell
6 you why, as strange as it sounds. There are two
7 models that retailers follow, the first is the
8 specialty store model that sells only one type of
9 product, typically jewelry, hardware, shoes come
10 to mind. It's based on a customer needing one
11 type of product and purchasing it at a store known
12 for the sale of that product. The second model is
13 the general store model that sells many different
14 products. It's based on a customer entering to
15 buy one of the many different types f products
16 that are for sale and seeing and purchasing other
17 products that are for sale too. Department
18 stores, mass merchandisers and national chain
19 drugstores follow the general store model. By the
20 way, general stores, which we now call bodegas,
21 follow that model also. The purpose of Intro 1048
22 is to increase the number of products that can be
23 sold newsstands. If consumers will now be able to
24 purchase a product that a newsstand that the
25 formerly bought in a store, they will not enter

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2 the store and see other products for sale that
3 they might also purchase. In other words, the
4 effect of Intro 1048 would be to divert traffic
5 from stores, particularly mass merchant retailers.
6 Recognizing this, the present law tries to balance
7 the need for newsstand owners to sell more
8 products with the need of store owners to prevent
9 potential customers from being diverted from
10 entering their stores. It does this by
11 prohibiting newsstands from selling certain
12 products, even if they can be sold within the
13 applicable price limit, and they are, apparel,
14 jewelry, hair ornaments, handbags, and video
15 cassettes. Because Intro 1048 would increase the
16 price limits by 100 percent without changing the
17 prohibitions it would, in effect, alter the
18 balance in favor of newsstands and against, I'm
19 saying the balance that was set when this bill was
20 first past, and against retailers in stores,
21 particularly since one of the prohibited products
22 is video cassettes and I don't think there is a
23 significant demand for that product. In order to
24 restore the balance the following additional
25 products should be prohibited, undergarments,

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2 including pantyhose, bathing, shaving and feminine
3 hygiene products, cosmetics, over the counter
4 drugs, batteries, and electronic products. The
5 prohibitions we suggest would allow newsstands to
6 sell many more products than they do now while
7 minimizing the diversion of customers for our
8 stores. The City has imposed many requirements on
9 retailers including but not limited to paid sick
10 leave, living wage, recycling of electronic
11 products, electronic waste. It cannot keep
12 imposing costs on retailers and then essentially
13 divert potential customers from retail stores.
14 Our stores are engines of employment and tax
15 revenues. We need and deserve the Council's
16 report. NYMRA therefore opposes Intro 1048 in its
17 present form and urges disapproval.

18 CHAIRPERSON GARODNICK: Thank you,
19 Mr. Mandliker. I have a couple questions and then
20 I know that the bill sponsor, Council Member
21 Koslowitz does too. First, can you help us
22 understand why you selected the particular items
23 that you did in your testimony that you believe
24 should be excluded from newsstand sales if we were
25 to pass this bill?

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2 MR. MANDLIKER: Yes. What I did,
3 'cause what do I know about retailing? So, I
4 called the various members of NYMRA and said,
5 here's this bill, pretty simple bill, does it have
6 an effect on you? And they said, yes. I said,
7 well, how can it have an effect on you? And they
8 said, well, people come in, women come in to buy
9 pantyhose, that's the first thing they said, buy
10 pantyhose. People come in to buy batteries all
11 the time. people come in to buy shaving products
12 and feminine hygiene products and bathing
13 products, this particularly for the drugstores.
14 That's where people come in, they come in and then
15 while they're there we have all these attractive
16 other products are for sale. So, what I've
17 picked, you know, there are tons of products that
18 I could pick but I tried to get my client to tell
19 me, what other products, 'cause we have to be
20 reasonable, can't prohibit everything. So, what
21 are the products that attract traffic to our
22 stores that newsstands could divert? You know, a
23 Macy's isn't really affected by something like
24 this. It's more the targets, the chain
25 drugstores, the ones that have more undepartment

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store type goods in them, but that's how we picked it.

CHAIRPERSON GARODNICK: So, if I were to characterize your testimony as not being opposed to the concept of raising the price from five to ten but that if we were to do it you wanted to exclude more items. Is that the fair assessment of your testimony?

MR. MANDLIKER: It's more than fair, it's exact.

CHAIRPERSON GARODNICK: Okay, good. So, in other words, when we change, we, the Council, predates me, raise the limit from \$2.00 to \$5.00 back in 2002 was there any impact on mass merchant retailers that could have been causally connected in any way here to that change?

MR. MANDLIKER: I don't know the answer to that.

CHAIRPERSON GARONDNICK: And, okay, all right, I don't know the answer either, but I figured I would ask. Okay, Council Member Koslowitz.

COUNCIL MEMBER KOSLOWITZ: Thank you. Pantyhose is apparel and apparel is not

1 included in this, it never was. I introduced the
2 first bill, a \$2.00 bill in 1991. To sell, let's
3 say, an aspirin, if I'm walking along a street and
4 I have a bad headache and I need something
5 quickly, I want to be able to not stand on line
6 and go into a drugstore but go to a newsstand and
7 buy a little thing of aspirins. And if you go
8 into a drugstore aspirin are more than \$10.00.
9 You can't buy an aspirin for more than \$10.00
10 unless you're buying the small packets or any
11 other kind of drugs, like, the sinus, you know,
12 tablet, or whatever. So, I don't think that it's
13 in this bill that would hurt any kind of a
14 drugstore. People go into drugstores for
15 prescriptions. I know I certainly would go into a
16 drugstore if I needed, you know, quite a few
17 items. But I don't see how this hurts any kind of
18 drugstore. The Fast when you go into on the
19 corner where I live in Forest Hills, the Fast
20 Break sells aspirins, it sells all those small
21 quantities of drugs, if I wanted an aspirin. So,
22 I don't see how this effects, if the newsstands
23 sell this, how it's going to affect anybody's
24 life. More, most people go in for a bottle of
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2 aspirins, which, like I said, is more than \$10.00
3 so, I would still go into the drugstore if I
4 wanted Advil or any other product like that. So,
5 I don't understand how it hurts the drug industry.

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MR. MANDLIKER: So, if I
7 understand, you're focusing on, like, packets of
8 aspirin?

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COUNCIL MEMBER KOSLOWITZ: Right.

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MR. MANDLIKER: And if I wanted, in
11 my office, if I have a headache I can take out a
12 packet that has two aspirins.

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COUNCIL MEMBER KOSLOWITZ: Right.

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MR. MANDLIKER: You're talking
15 about buying a single packet of aspirins as
16 opposed to--

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COUNCIL MEMBER KOSLOWITZ:

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[interposing] Or two, but that may be as five, as...

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MR. MANDLIKER: --a big carton of
20 them that has--

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COUNCIL MEMBER KOSLOWITZ:

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[interposing] Right.

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MR. MANDLIKER: --multiple
24 aspirins. And, you know, quite frankly, if you're
25 talking about something like that, you know, a

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2 packet of aspirins, who could be against, even I
3 can't be against that. Although, if I think about
4 it, even I can.

5 COUNCIL MEMBER KOSLOWITZ: No, but
6 I want--

7 MR. MANDLIKER: [interposing] Like,
8 there are all sorts of other things that I have in
9 there. You mentioned pantyhose as apparel. And
10 that was my first reaction, that pantyhose in
11 apparel, but, you know, I'm not smart enough to
12 know whether pantyhose is apparel, is underwear
13 apparel?

14 COUNCIL MEMBER KOSLOWITZ: If
15 you're wearing it.

16 MR. MANDLIKER: Is apparel, well, I
17 understand that. [laughter] At least I don't want
18 to admit or deny it. [laughter] But, are
19 accessories apparel? I don't know are accessories
20 apparel. A hair ornament, is that apparel? But
21 it's separately mentioned. So--

22 COUNCIL MEMBER KOSLOWITZ:
23 [interposing] Have you ever seen the size of a
24 newsstand?

25 MR. MANDLIKER: I think I see one

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every day.

COUNCIL MEMBER KOSLOWITZ: Okay.

Do you think that they can stock up on all these items that they're going to sell? Do you think that's going to happen?

MR. MANDLIKER: They're going to stock up on the items that are most, 'cause they're retailers, and they'll stock up on the items that are most attract traffic to their establishments and if it just happens to be an item that would attract established, attract consumer traffic to our establishments, they're going to compete. Now, you can't have no competition so the question is, where do you draw the line?

COUNCIL MEMBER KOSLOWITZ: Well, bottom--

MR. MANDLIKER: [interposing]
Packets of aspirin? Okay. Packets of aspirin, okay. Bottles of aspirin, different.

COUNCIL MEMER KOSLOWITZ: Bottles of aspirin are for drugstores.

MR. MANDLIKER: Drugstores, a packet of aspirin, I don't have a problem with

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that, I said I don't have a problem.

COUNCIL MEMBER KOSLOWITZ: Jewelry
is apparel.

MR. MANDLIKER: You know--

COUNCIL MEMBER KOSLOWITZ:
[interposing] I'm wearing a necklace, apparel,
it's part of my outfit.

MR. MANDLIKER: I know. But I'm
just looking at apparel and at jewelry. It had
them both listed so that tells me that there's,
I'm not arguing with you, I think it is apparel
but I'm dealing with a law that I see and I'm just
trying to parallel it, expanding the products but
paralleling it a little bit. Because, I've tried
to give you the items that are most important to
my client. And, you know, you've said to me about
a packet of aspirins, okay, a packet of aspirins,
I can't be against that. You mentioned battery
chargers. You haven't heard me say anything about
cell phone chargers or anything like that and I'm
sure it's very much in demand. I own one,
actually own two of them, that is chargers, not
cell phones. And okay, but, I mean, this I what
I'm saying, I'd like to, you know, we're balancing

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2 something, that's what legislation does all the
3 time. We balance, we have the interest of these
4 newsstand owners, they're entitled to make a
5 living, but the stores are entitled to make a
6 living also.

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COUNCIL MEMBER KOSLOWITZ:

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Absolutely.

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MR. MANDLIKER: And these--

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COUNCIL MEMBER KOSLOWITZ:

11 [interposing] And personally I don't think this
12 would hurt any store of what they're--

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MR. MANDLIKER: [interposing] I

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understand.

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COUNCIL MEMBER KOSLOWITZ: --able

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to sell.

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MR. MANDLIKER: And with great

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respect, I say to you that I didn't pull these

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products out of the air, you know, I consulted to

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try to see what were the products that would most

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affect or have the potential to most affect. And

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that's why I came up with the products that I came

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up with. I mean, I personally, I couldn't tell

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you what would affect anything. What do I know?

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COUNCIL MEMBER KOSLOWITZ: No, but

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2 I'm just saying, you know, you have cosmetics. I
3 certainly would never buy cosmetics at a
4 newsstand, no offense to the newsstand operators.
5 I would never think of going, how would they have
6 the room enough for the shades that you wear, you
7 know, makeup, I'm very experienced with makeup.
8 And, you know, whatever you put on your face,
9 people put on different colors on their face.
10 They don't have the room to handle all these
11 products. I mean, it's like common sense that
12 they couldn't sell cosmetics. So, a lot of the
13 things that you have mentioned I don't see in any
14 way how it would hurt any drugstore because I know
15 I go to the drugstore many, many times.

16 MR. MANDLIKER: So, therefore,
17 there's no, well, the things, the only thing that
18 I've mentioned that you said that you don't see
19 hurting the drugstores is the packet of aspirins.

20 COUNCIL MEMBER KOSLOWITZ: And
21 cosmetics because--

22 MR. MANDLIKER: [interposing]
23 'Cause they're not going to sell cosmetics.

24 COUNCIL MEMBER KOSLOWITZ: Right.

25 MR. MANDLIKER: And so, therefore--

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COUNCIL MEMBER KOSLOWITZ:

[interposing] They're not big enough. They would have to expand.

MR. MANDLIKER: And therefore if we put it in the bill as a prohibited product it doesn't hurt the people that it's supposed to help..

COUNCIL MEMBER KOSLOWITZ: Well, if we don't put it in the bill and they do sell it..

MR. MANDLIKER: Where are they going to sell it from? where's the room for it?

COUNCIL MEMBER KOSLOWITZ: Well, you just answered my, [laughter] you just answered my question, where is the room? So, how can they sell it so why do we have to put it into the bill?

MR. MANDLIKER: Because, I think it will give comfort to a very important economic and job creation sector of the city's economy because people are very smart and they can figure out lots of ways to do things. And if it's, if saying that newsstands can't sell cosmetics when they're not going to sell it anyway, it doesn't hurt.

COUNCIL MEMBER KOSLOWITZ: I'll take that under consideration.

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MR. MANDLIKER: Thank you.

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CHAIRPERSON GARODNICK: Thank you.

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Let me just ask one last question.

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MR. MANDLIKER: Sure.

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CHAIRPERSON GARODNICK: In the list that you gave, you started with undergarments and then went down the list. It sounded like, from the way you described it, that perhaps that was the item of greatest concern to your clients. Was I reading you correctly?

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MR. MANDLIKER: So, actually I did independent market research and I'm going to tell you my methodology. I went to our office manager, who's a very intelligent individual, and I said, what do you go into a chain drugstore the most for? What gets you in there? She said, if I need pantyhose. That was my market research. That's why I put pantyhose first.

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CHAIRPERSON GARODNICK: All right, fair enough. Thank you. I want to note that we've been joined by Council Members Julissa Ferreras and Oliver Koppell.

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COUNCIL MEMBER KOPPELL: Actually,

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you--

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CHAIRPERSON GARODNICK:

[interposing] Council Member Koppell has a question.

COUNCIL MEMBER KOPPELL: I don't, I'm not sure whether I think that cosmetics should or should not be sold in these but why do you say that they wouldn't be sold? I don't understand.

MR. MANDLIKER: I didn't.

COUNCIL MEMBER KOPPELL: Oh, you didn't say that? Oh.

MR. MANDLIKER: Your Council, your colleague, Council Member Koslowitz said that they wouldn't be sold because there's not enough room to sell them.

COUNCIL MEMBER KOSLOWITZ: How do you offer different shades of cosmetics?

COUNCIL MEMBER KOPPELL: Yeah, but you could have a small stand of cosmetics. Well, we can discuss it, I thought you had said they wouldn't be sold.

MR. MANDLIKER: No, I was just responding to Council Member Koslowitz.

COUNCIL MEMBER KOPPELL: I see, okay, 'cause I don't agree with Council Member

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2 Koslowitz on that. I don't agree with her. I
3 think they would be sold. But, we will, we can
4 discuss that privately.

5 CHAIRPERSON GARODNICK: Thank you--

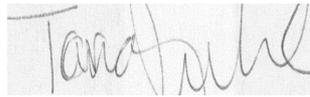
6 MR. MANDLIKER: [interposing] Thank
7 you very--

8 CHAIRPERSON GARODNICK: --very
9 much, Mr. Mandliker. We appreciate your
10 testimony. And seeing no other witnesses wishing
11 to testify on Intro 1048, we want to thank all of
12 our witnesses for coming and members of the public
13 for participating, thank our bill sponsor, Council
14 Member Koslowitz for introducing this matter and
15 Committee Counsel, Rachel Cordero. And with that,
16 this hearing, did I note that Council Member
17 Nelson was present? Just wanted to make sure I
18 did. With that, this hearing is adjourned.

C E R T I F I C A T E

I, Tara Juhl certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script, appearing to read "Tara Juhl", is written over a light gray rectangular background.

Date 6/12/13