



Shannon Pratt's BUSINESS VALUATION[®]

UPDATE

A Business Valuation Resources[®] publication

Timely news, analysis and resources for defensible valuations

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Editor's Column:

***Economic Outlook Update*[™] can be used for litigation cases**

An instructor in a business valuation litigation support class recently challenged a student's use of our *Economic Outlook Update*[™] in a report prepared for litigation. The student did not know the answers to all the questions (partly because we had not previously provided all the answers), so here are the answers to questions you may be asked on the witness stand in connection with the *Economic Outlook Update*[™].

Federal Rules of Evidence

An important exception to the ban on hearsay evidence applies to expert witnesses as opposed to lay witnesses. That is, experts are allowed to quote from material normally used by similar experts.

Rule 703 of the Federal Rules of Evidence states:

The facts or data in the particular case upon which an expert based an opinion or inference may be those perceived or made known to him at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.¹

The fourth edition of *Valuing a Business* discusses this very excerpt from Rule 703:

Correctly analyzed, it is the opinion of the expert that is the evidence, not the hearsay information that supports it. The key phrase in the above

quotation from the Federal Rules is "reasonably relied upon by experts in the particular field in forming opinions." . . . If the use of such information may provoke controversy, the attorney should ask the expert a question, or a series of questions, on the stand to ensure that the court understands that analysts typically rely on such information in the course of valuing businesses.²

Although business appraisers are expected to have a working knowledge of economics, most of us are not economists. Therefore, we usually quote credible economic sources for the economic section of our reports.

***Economic Outlook Update*[™] highly credible**

Each issue of the *Economic Outlook Update*[™] is compiled from a list of sources that most people consider highly credible and that are listed in each issue. These include, for example: Bureau of Economic Analysis; Bureau of Labor Statistics; *Consensus Forecasts-USA*; The Federal Reserve Board; U.S. Census Bureau; and many others.

Consensus Forecasts-USA conducts monthly surveys of a panel of prominent U.S. economic forecasters for a range of variables including future growth and inflation. This is the source of our five- and 10-year forecasts, as footnoted in the tables and charts. These long-term forecasts are scarce and expensive, yet are

important inputs to a business valuation, especially the terminal value in the income approach.

Staff is well-qualified

The instructor asked the student whether he knew who wrote the *Economic Outlook Update*[™]. The writing and editorial staff is listed on the front page of each issue.

He then asked whether the student knew their qualifications. These are not disclosed in the *Update*, so here they are:

Alina Niculita, managing editor

Bachelor of Economics, Academy of Economics Studies, Bucharest Romania, MBA in Finance, Graduate School of Business, University of Pittsburgh, two years in PhD program in Systems Science/Business Administration, Portland State University

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Bachelor of Science in Finance, University of Oregon, Doctor of Jurisprudence, University of Oregon

Angelina McKedy, finance intern

Bachelor of Science in Finance, Portland State University

Internet sources posted only briefly

The instructor then asked whether the student had personally read the sources cited. In almost 200 times on the witness stand, I have never been asked that question with respect to general economic information.

However, if this is a concern to you,

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¹ Fed. R. Evid. 703.

² Shannon P. Pratt, Robert F. Reilly, and Robert P. Schweih, *Valuing a Business*, Fourth Edition, (New York: McGraw-Hill, 2000): 877.

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Economic Outlook Update[™] can be used for litigation cases ...continued from front page

I advise you to download or print the internet sources cited immediately on receiving the issue, because the articles eventually are removed.

Editors very accessible

The instructor also asked the student whether he had spoken with a staff member of the *Economic Outlook Update*[™]. This is another question I've never been asked with respect to general economic data.

Nonetheless, our editors are available by phone and will be pleased to talk with you. They even can give you many sources of forecasts which *Consensus Forecasts-USA* polls for its economic forecasts.

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We grant permission to subscribers to use part (or even all) of the *Economic Outlook Update*[™] in valuation reports, with proper attribution (please see an issue of the *Economic Outlook Update*[™] for the required wording). The resources of our staff for this task are probably greater than most firms have internally, and we intend to produce a comprehensive product. **BVU**

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