



Bill C-18 – The Online News Act

Submission of the
Canadian Association of Broadcasters

to the
Standing Committee on Canadian Heritage

November 4, 2022

About the Canadian Association of Broadcasters

The Canadian Association of Broadcasters (CAB) is the national voice of Canada's private broadcasters, representing the vast majority of Canadian programming services, including private radio and television stations and discretionary services.

Background on Recommendations

Canada's private broadcasters welcome the introduction of the Online News Act as an important step towards recognizing the value of broadcasters' news content and providing the necessary framework for fair negotiation between news organizations and online platforms.

Private broadcasters are trusted by Canadians as their primary source for local news in small, medium and large communities across the country. They represent a diversity of editorial voices with critical news and information programming in English, French, Indigenous and other languages serving Canada's diverse ethnic communities.

Maintaining professional newsrooms in communities across the country is a fundamental commitment of Canada's broadcasters. Last year, Canadian private broadcasters invested \$681 million in news and community information.

However, foreign online platforms have moved aggressively over the past decade to corner the markets in search and advertising. Using their dominant positions, they have dramatically impacted the advertising market through the algorithmic exploitation of user data.

As news broadcasters and publishers struggle to maintain the resources necessary to continue to inform Canadians, it is critical that a policy framework be developed to help recognize the value of their online content. This framework should recognize Canadian news organizations' unique contributions to the public good, and the value extracted from them by dominant digital platforms.

Ensuring the viability of our newsrooms is critical to Canada's democracy. This is particularly essential as Canadians today are increasingly confronted with misinformation and disinformation online. We know that when Canadians turn to online sources for news, they have stated that their most trusted sources are the sites associated with broadcasters.

The content that is ultimately of most use to citizens and to the continued vitality of our democracy is developed through trusted news organizations, including television and radio broadcasters.

Canada's broadcasters want to continue to be a dependable source for local, national and international news for Canadians.

But to do so, we require a fair opportunity to be compensated for the value of our news content.

Key amendments

Section	Current text of Bill C-18	Suggested amendment	Rationale
51	<p>In relation to news content that is produced primarily for the Canadian news marketplace by a news outlet operated by an eligible news business and that is made available by a digital news intermediary, the operator of the intermediary is prohibited from acting in any way that</p> <p>(a) unjustly discriminates against the business;</p> <p>(b) gives undue or unreasonable preference to any individual or entity, including itself; or</p> <p>(c) subjects the business to an undue or unreasonable disadvantage.</p>	<p>In relation to news content that is produced primarily for the Canadian news marketplace by a news outlet operated by an eligible news business and that is made available by a digital news intermediary, the operator of the <u>a digital news</u> intermediary is prohibited from acting in any way that</p> <p>(a) unjustly discriminates against the business;</p> <p>(b) gives undue or unreasonable preference to any individual or entity, including itself; or</p> <p>(c) subjects the business to an undue or unreasonable disadvantage.</p>	<p>This section of the bill is critical to ensure that digital news intermediaries do not use their significant leverage to discriminate between eligible news businesses.</p> <p>However, as currently written, this section of the bill leaves a big loophole because it would allow digital news intermediaries to unjustly discriminate against eligible news businesses by simply not making them available on their platforms. In other words, digital news intermediaries could circumvent the purpose of this provision by denying access altogether.</p> <p>This is clearly not the intent of this section, so the amended text would ensure that the digital news intermediaries do not have this workaround to profoundly discriminate against eligible news businesses.</p>
Section 27(1)	<p>27 (1) At the request of a news business, the Commission must, by order, designate the business as eligible if it</p> <p>(a) is a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act; or</p> <p>(b) produces news content that is primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and</p> <p>(i) regularly employs two or more journalists in Canada,</p> <p>(ii) operates in Canada, including having content edited and designed in Canada, and</p> <p>(iii) produces news content that is not primarily focused on a particular topic such as industry-specific news, sports,</p>	<p>27 (1) At the request of a news business, the Commission must, by order, designate the business as eligible if it</p> <p>(a) is a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act; or</p> <p>(b) produces news content that is primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and</p> <p>(i) regularly employs two or more journalists in Canada,</p> <p>(ii) operates in Canada, including having content edited and designed in Canada,</p> <p>(iii) produces news content that is not primarily focused on a particular topic such as industry-specific news,</p>	<p>The designation of “eligible news businesses” may be too broad, capturing organizations that are not fully and legitimately in the business of providing reliable and professional news content in adherence to best journalistic practices and ethical guidelines.</p> <p>The CAB recommends a provision be added that requires eligible news businesses to be members of an association or organization that requires them to be subject to professional journalism standards, such as the RTDNA Canada (the Radio Television Digital News Association) Code of Journalistic Ethics, or the Canadian Association of Journalists’ Ethics Guidelines, or other generally accepted national and regional journalistic standards.</p> <p>For private radio and television broadcasters, membership in the Canadian Broadcast Standards Council ensures that they respect the CAB Code of Ethics, the RTDNA Code of Ethics and the Journalistic Independence Code. The Canadian Radio-television and Telecommunications Commission also</p>

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	recreation, arts, lifestyle or entertainment.	sports, recreation, arts, lifestyle or entertainment, and (iv) is a member in good standing of an organization that requires adherence to generally accepted journalistic standards.	requires broadcasters to adhere to such codes.
85	<p>85 The Commission may make regulations</p> <p>(a) respecting requests for orders referred to in subsection 11(1);</p> <p>(b) respecting the bargaining process set out in sections 18 to 44;</p> <p>(c) respecting requests for designations referred to in subsection 27(1);</p> <p>(d) establishing the code of conduct referred to in section 49;</p> <p>(e) respecting complaints referred to in section 52;</p> <p>(f) respecting the manner in which groups of eligible news businesses are to be structured and the manner in which they are to exercise their rights or privileges and carry out their obligations under this Act;</p> <p>(g) respecting the provision of information by groups of eligible news businesses to the Commission respecting their structure;</p> <p>(h) respecting the exercise by any person appointed under section 8 of the Canadian Radio-television and Telecommunications Commission Act of any of the powers — other than the power to make regulations —</p>	<p>85 The Commission may make regulations</p> <p>(a) respecting requests for orders referred to in subsection 11(1);</p> <p>(b) respecting the bargaining process set out in sections 18 to 44;</p> <p>(c) respecting requests for designations referred to in subsection 27(1);</p> <p>(d) respecting adherence to accepted journalistic standards;</p> <p>(e)(e) establishing the code of conduct referred to in section 49;</p> <p>(e)(f) respecting complaints referred to in section 52;</p> <p>(f)(g) respecting the manner in which groups of eligible news businesses are to be structured and the manner in which they are to exercise their rights or privileges and carry out their obligations under this Act;</p> <p>(g)(h) respecting the provision of information by groups of eligible news businesses to the Commission respecting their structure;</p> <p>(h)(i) respecting the exercise by any person appointed under section 8 of the Canadian Radio-television and Telecommunications Commission Act of any of the powers — other than the power to make regulations — or the carrying out of any of the duties or functions, of the Commission under this Act; and</p>	A corollary amendment to the one suggested for section 27(1) should also be made permitting the Commission to impose regulations regarding adherence to industry codes.

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	<p>or the carrying out of any of the duties or functions, of the Commission under this Act; and</p> <p>(i) respecting the Commission's practices and procedures in relation to this Act.</p>	<p>(i) (j) respecting the Commission's practices and procedures in relation to this Act.</p>	