

Common Principles for Google Exemption from the *Online News Act*

In addition to our respective submissions, the Canadian Association of Broadcasters, the Canadian Broadcasting Corporation and News Media Canada have created this document to reflect the common principles that we collectively believe should be adopted by the Canadian Radio-television and Telecommunications Commission (CRTC) as part of any exemption for Google LLC (Google) from the *Online News Act (ONA)* issued within public proceeding *Online News Notice of Consultation CRTC 2024-143 (ONNC 2024-143)*.

1. Interim Exemption

The CRTC should grant an interim exemption order to Google contingent on:

- Google distributing \$100M to the Canadian Journalism Collective (CJC) within five business days of the interim exemption being granted;
- The CJC fully distributing the \$100M in 2024 (before the close of the calendar year) to eligible news businesses that responded to Google's Open Call in the winter/spring of 2024 via an independent third-party accounting firm (the Accounting Firm);
- The CJC shall have no discretion in exercising that distribution and shall comply with all payment requirements under the *ONA*, related regulations and any order from the CRTC when doing so; and
- The Accounting Firm will distribute funds on an interim basis to all eligible news businesses based on the number of Full Time Equivalent (FTE) employees the news business has that meets the definition set out below. Eligible news businesses must provide a sworn attestation.

The exemption granted to Google should be limited to only section 21 (bargaining provision) of the *Online News Act*.

A) Changes to the Agreement between Google and the CJC

The CRTC should mandate the following changes to the agreement between Google and CJC (with a view to eventually granting the Exemption Order under subsection 11(1) of the *ONA*):

- A requirement for Google to distribute to the CJC:
 - \$100M each year plus the increase from the previous year for CPI within five business days after the start of the calendar year (except for 2024, which should be paid within five business days from the issuance of the CRTC's exemption);
 - The CPI adjustments required by s.9(2) of the Regulations by June 1st each year;
 - Payment for the administrative fees of the Collective capped at 0.5%;
- Amendments to the agreement between Google and the CJC to reflect the sole role and responsibility of the CJC which is to distribute the payment of Google's \$100 million contribution to attesting and eligible news businesses, including removal of any contractual clauses that require news businesses to forgo any copyright or other right, not directly required for the granting of an exemption under the *ONA*.

B) Changes to the CJC Bylaws

The CRTC should mandate the following changes to the CJC's bylaws and relevant constituting documents:

- A requirement for the CJC to distribute the funds to eligible news businesses within 30 days of receipt of payments from Google (with the exception for 2024 and 2025 as noted above). Distribution will be made to all news businesses that are eligible, submitted a sworn attestation and registered with the CJC by a deadline set by the CJC.
- A requirement for CJC to adopt the following definitions for purposes of distribution of the money received from Google:
 - **Eligible employee** – defined as a full-time equivalent employee of an eligible news business, that spends at least 75% of their time engaged in the production of original news content, including researching, collecting information, verifying facts, conducting interviews, photographing, filming, recording, writing, editing, video-editing, photo-editing, audio-editing, designing, assembling, and otherwise preparing, delivering and/or presenting original news content;
 - **Eligible news business** – as defined in Section 27(1) of the ONA;
 - **Employee** – defined as a person who receives a T-4 slip from their employer, but does not include:
 - Consultants,
 - Independent contractors, including freelancers, or
 - Volunteers, including unpaid interns;
 - **Full time equivalent (FTE)** – 35 hours per week of work will be used to calculate FTE Employees;
 - **News content** – defined as content – in any format, including an audio or audiovisual format – that reports on, investigates or explains current issues or events of public interest and includes such content that an Indigenous news business makes available by means of Indigenous storytelling;
 - **Original news content** – defined as news content which originates from the eligible news business;
- Remove any provisions of the agreement that allow the CJC to distribute funding based on its discretion;
- Remove provisions of the agreement that provide Google with the discretion to admit members to the CJC;
- A revised Board of Directors of the CJC to be nimble and representative of the key stakeholders that will be recipients of the payments from Google including representation (with voting rights) from the news publishing sector; representation from the broadcast news sector; and representation from CBC/Radio-Canada; and
- Disputes to be addressed through a simplified dispute resolution mechanism that includes adjudication by qualified individuals.

2. Full Exemption

The CRTC should grant Google a full five-year exemption pursuant to subsection 11(1) of the ONA upon the CRTC having reviewed the CJC by-laws, the revised Google/CJC agreement and all requisite filings by Google and the CJC ensuring that they reflect changes mandated by the CRTC. The CJC will ensure that it has run elections and fully constituted itself in accordance with the revised by-laws by June 1, 2025.

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