

This enactment would regulate digital news intermediaries to enhance fairness in the Canadian digital news marketplace and contribute to its sustainability. It would establish a framework through which digital news intermediary operators (platforms) and news businesses may enter into financial agreements to compensate for news content that is made available by the intermediaries. The framework considers principles of freedom of expression and journalistic independence.

**Sponsor:** Ministry of Canadian Heritage

**Current Status:** At consideration in committee in the Senate – April 18, 2023

### Key elements of the Bill:

- Specifies that this does not apply to broadcasters that are otherwise captured under the Broadcasting Act;
- Determinant factors will be made by the Governor in Council that will dictate whether there is a significant power imbalance between intermediaries (platforms) and news publishers. The Governor in Council will also be authorized to make regulations around what criteria is used to establish any exemptions;
- CRTC will be required to maintain a list of digital news intermediaries for which the act applies;
- CRTC will be required to exempt a digital news intermediary from the application of the enactment if its operator has entered into agreements with news businesses and the Commission is of the opinion that the agreements satisfy certain criteria;
- The act establishes a bargaining process and code of conduct in respect of matters related to the making available of certain news content by digital news intermediaries and establishes eligibility criteria and a designation process for news businesses to participate;
- Prohibits digital news intermediary operators (platforms) from making certain news content available in ways that discriminate unjustly, give undue or unreasonable preference or that subject certain news businesses to an undue or unreasonable disadvantage;
- Allows news publishers to make complaints to the Commission.
- Authorizes the Commission to require the provision of information for the purpose of exercising its powers and performing its duties and functions under the enactment;
- Authorizes the Commission to impose, for contraventions of the enactment, administrative monetary penalties on certain individuals and entities and conditions on the participation of news businesses in the bargaining process;

- Establishes a mechanism for the recovery, from digital news intermediary operators, of certain costs related to the administration of the enactment
- Establishes a framework respecting the provision of information to the responsible Minister, the Chief Statistician of Canada and the Commissioner of Competition, while permitting an individual or entity to designate certain information that they submit to the Commission as confidential;
- Requires the Canadian Broadcasting Corporation to provide the Commission with an annual report if CBC is a party to an agreement with an operator;
- Requires the Commission to have an independent auditor prepare a report annually in respect of the impact of the enactment on the Canadian digital news marketplace.

### **Implications for Digital Advertising Industry**

- Debate on search engine results pages (SERPs) regarding the use of headlines vs. encouraging clicks to publishers.
- Industry question/discussion regarding “links” and their function/value to drive traffic back to publisher sites.
- Discussion on potential overreach on arbitration and appropriation of funding.
- Cooling factor may lead to potential suspension of news links available on social platforms could pose a significant negative impact on news category inventory.

### **Looking Forward**

- Industry involvement in the development of regulations is anticipated including the establishment of criteria for eligibility and exemption as well as the framework outlining the bargaining process.

### **IAB Canada Activity**

- Conduction of stakeholder interviews to determine potential action by the association.
- Focus on discovery work around links, impact on Canadian news inventory supply from potential news blocks.
- Observance and discussion around CRTC activity with regards to designations and exemptions.

### **Further Reading**

- [Full Content of the Bill](#)