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Digital giants face bill for news content

Ottawa moves to help compensate media organizations

Raisa Patel Toronto Star

The federal government is moving to compel web giants to pay media outlets for news content shared on their platforms, in a bid to support an industry grappling with shuttering newsrooms and a deluge of misinformation online.

On Tuesday, Heritage Minister Pablo Rodriguez introduced Bill C-18, the Online News Act, which would force digital giants like Google and Facebook to share some of the revenues they generate from posting Canadian news content with the media outlets that produce the stories.

The aim is to level the playing field between Canada's shrinking news industry and big online platforms, given that tech titans dominate the digital advertising market. Many in the industry have lobbied for the federal government to address the imbalance in online advertising revenue, including Torstar, which publishes the Toronto Star.

The government says more than 450 Canadian media outlets closed between 2008 and 2021, and that 80 per cent of online ad revenues in 2020 went to

Google and Facebook.

"That's an incredible chunk of power in the market. That also means that while news is being shared widely, journalists and newsrooms are not earning what they should from their work," Rodriguez told a news conference.

Paul Deegan, the CEO of News Media Canada - one of the groups that led lobbying efforts for the bill - said the legislation means Ottawa has recognized the necessity of independent journalism.

"Whether it's (the) Ottawa convoy, whether it's the attack on the Capitol in the U.S., whether it's misinformation out of Moscow... people really are craving trusted information," Deegan said.

"One thing to bear in mind... is this isn't a silver bullet," he added.

"There's a number of areas that we're going to continue to push for over the next number of months and years," Deegan said.

Google and Meta, Facebook's parent company, told the Star they are reviewing the bill and looking forward to working with the government and stake-

holders after better understanding its implications.

Canada's legislation is based on Australia's News Media Bargaining Code, which came into effect just over one year ago.

The code has drawn criticism for resulting in secret deals between tech giants and news publishers, and for potentially shutting out smaller-sized publishers.

Tuesday's bill will specifically target digital platforms that have a "significant bargaining imbalance" with news businesses. That determination will be made by assessing criteria including the size of the platform and how much global revenue it generates.

Eligible news outlets must either be designated as a qualified Canadian journalism organization (QCJO) under the Income Tax Act, or meet other criteria that ensures they are a legitimate enterprise.

Private and public broadcasters, print outlets and non-Canadian businesses that operate in Canada are all eligible, as long as they meet the listed criteria.

The bill allows for news outlets to ne-

gotiate collectively, and is primarily intended to ensure that deals are struck between publishers and platforms.

It also allows platforms to ask for an exemption, which will be reviewed by the CRTC.

Six criteria for exemptions have been listed so far, including one that requires that agreements must ensure "an appropriate portion of the compensation be used to support the production of local, regional and national news content."

Michael Geist, a Canada research chair in internet and e-commerce law at the University of Ottawa, said some of the exemptions appear to place undue responsibilities on news outlets.

"Is it the government's view that Google gets to dictate how Canadian news organizations spend the money that is generated on their licensing deals?" Geist asked.

Should agreements fail to be reached, news organizations can initiate a mandatory bargaining process. As a "last resort," a final-offer arbitration process overseen by the CRTC will take place, in which both parties submit an offer and an independent panel selects one.

The CRTC will also be able to issue penalties of up to \$15 million per day for social media platforms that don't comply with the legislation.

The decision to involve the CRTC in the framework has sparked criticism over whether the regulator is independent enough, and whether it is too focused on broadcasting to address disputes affecting other media.

"This now brings in a whole new area of

responsibility for the CRTC, complete with fining power, complete with judgment calls on the value of commercial arrangements," Geist said.

He said a better pathway to reviving Canada's struggling news industry is to pay more attention to innovation within the field, such as the rise in digital-first news organizations.

"Ultimately, (the legislation) doesn't get us to where we need to go, which is not increased dependence on platforms, but rather a more innovative news sector," he said.

If the bill passes, decisions on granting exemptions or initiating the bargaining process could begin within six months to a year.

While the legislation was only tabled on Tuesday, a number of deals have already been inked between Google, Facebook and Canadian news outlets.

Last fall, Google made a deal with 11 publishers, including Torstar, to join its News Showcase service. Through the service, users can access content from certain publications, sharing news from trusted outlets and directing traffic back to their sites.

Meta signed a multi-year deal with Torstar in November that will see the web giant pay the publisher for the ability to post links to work produced by its publications. Seventeen other Canadian publishers are part of the program, which is called the News Innovation Test.

It will be up to those parties to "reopen and renegotiate" those agreements, officials said.

Deegan said it's imperative that Parliament work quickly to pass the bill, given that it was introduced two months after the government's self-imposed deadline of early February.

"Let's get it passed by the end of June... so that we can start to negotiate content licensing agreements with the platforms," he said. "Introducing legislation is great, but it's just a first step."