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Link blocking 'always on the radar,' but Google's committee response a 'threat to legislators': Bittle

Liberal MP Chris Bittle calls Meta and Google's intimidation tactics over Bill C-18 a 'threat to Canadian Parliament' that needs to be condemned by legislators of all parties.

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Heritage Minister Pablo Rodriguez says Canadians "won't be intimidated" by Meta's threats that it will block access to news on Facebook or Instagram should the proposed Online News Act become law in its current form, but internet law expert Michael Geist says "calling these companies' bluff" will only harm the small and medium-sized news outlets the legislation intends to support.

First reported by The Globe and Mail on March 10, Meta made the decision to block Canadians' ability to view or share news due to concerns over the lack of clarity surrounding the financial burden imposed by Bill C-18, which would require Google and Meta to compensate news organizations for posting or linking to their work.

Lisa Laventure, a spokesperson for Meta, which owns Facebook and Instagram, told The Globe and Mail "a legislative framework that compels us to pay for links or content that we do not post, and which are not the reason the vast majority of people use our plat-

form, is neither sustainable nor workable." She added that posts with news articles accounted for less than three per cent of the content Canadians see on their Facebook feeds and is not a significant source of revenue for the company.

On Feb. 7, during the bill's second reading debate in the Senate, Progressive Senator Peter Harder (Ontario) said the government estimates that approximately \$215-million in compensation could go from digital platforms to eligible news businesses in Canada. According to the Parliamentary Budget Officer, that compensation could be up to \$329-million annually.

Following Meta's announcement, Rodriguez (Honoré-Mercier, Que.) said it was "disappointing" that the company had "resorted to threats instead of working with the Canadian government in good faith."

"This tactic didn't work in Australia, and it won't work here. Canadians won't be intimidated," Rodriguez wrote in an emailed statement to The Hill Times. "All Facebook has done up to this point

Liberal MP Chris Bittle says the threats by Google and Meta show the tech giants had 'limited regard for democracy,' describing the conduct by Google representatives during a March 10 appearance at the House Canadian Heritage Committee as 'truly appalling.' The Hill Times photograph by Andrew Meade

is show up at committee, delay, obstruct, refuse to answer questions, and threaten Canadians."

Rodriguez called the decision a "disappointing trend" by tech giants who would "rather pull news than pay their fair share," referring to similar action taken by Google, which began a five-week test on Feb. 9, to limit access to news for four per cent of Canadians. Google said the test is meant to assess the effects of a potential response to Bill C-18, and would end on March 16.

"C-18 has nothing to do with how Google and Facebook make news available to Canadians," Rodriguez wrote. "All we're asking Google to do is negotiate fair deals with news outlets when they profit from their work."

The statement also noted that “Google earned \$279-billion in their last fiscal year, their CEO alone earned approximately \$280-million in 2019, and when Australia introduced their News Bargaining Code, the entire amount paid to Australian news organizations in the first fiscal year it was implemented was \$150-million. That’s the context of what we’re talking about here.”

The possibility Meta and Google would block links to news sites was “always on the radar,” given the tech giants’ similar tactics in Australia in 2021, Liberal MP Chris Bittle (St. Catharines, Ont.) told *The Hill Times*.

However, Bittle said he also expects the response from Canadians will be similar to the backlash provided by Australians.

“Australians came together across party lines to condemn what was happening, and it was good to see that at committee,” said Bittle, who sits on the House Canadian Heritage Committee, which summoned Google representatives on March 10 to answer questions about the company’s decision to block access to news content.

“There may be disagreements with the bill, but this is ultimately a threat to Canadian Parliament,” Bittle added. “This is a threat to legislators, and we won’t stand for it.”

Appearing virtually, Sabrina Geremia, Google Canada’s vice-president and country manager, and Google Canada’s public policy manager Jason Kee were roundly condemned by committee members for the company’s actions as well as their conduct during the meeting, including by Bittle, who said the representatives had “shown limited regard for this democracy, for this Parlia-

ment, and for the representatives here.”

Conservative MP Kevin Waugh (Saskatoon–Grasswood, Sask.), the committee’s vicechair, accused the company of “overexceeding its boundaries” in arbitrarily shutting out 1.2 million Canadians from accessing news and said he was “disappointed” in Geremia’s lack of answers during her testimony. Committee members also objected to the lack of requested documentation around Google’s internal communications in response to Bill C-18 and the news-blocking test.

Liberal MP Lisa Hepfner (Hamilton Mountain, Ont.) also called for the witnesses to be put under oath after accusing Google of attempting to strong-arm Canadians by “abusing its dominance in the marketplace.”

Meta made similar threats in response to the United States’ Journalism Competition and Preservation Act, a bipartisan bill introduced in November 2022, which has similar aims to Canada’s and Australia’s legislation. The following month, New Zealand announced it would introduce similar legislation. Politicians in Europe and India also have expressed interest in similar laws to require Google and Facebook to pay for news article links.

“The world is taking notice; other democracies have concerns about the future of journalism and the fact that Google and Facebook—in this country—consume about 80 per cent of the ad revenue,” Bittle told *The Hill Times*. “Governments need to take action. This shouldn’t be an unregulated space.”

Bittle called the tech giants’ behaviour “truly appalling” and said that it needs to be condemned, but he said the gov-

ernment remains open to working with the companies to find a solution.

“We’ve worked with them throughout this legislation, and they have an opportunity to make their arguments to the Senate. That process still continues, and we will still listen,” Bittle said. “But as a government, we see that news has value, and this is something we need to move forward on as news organization after news organization closes over the last 10 years.”

Bittle also responded to the criticism that Bill C-18 constitutes government interference in what Canadians can and can’t access online, arguing that the legislation had been designed to keep the government out of the decision-making process as much as possible.

“This is a system that—as we saw in Australia—is done primarily through bargaining, and we’ve added collective bargaining to this process,” Bittle told *The Hill Times*. “Facebook and Google can opt-out if they turn in deals with news entities, including small ones who can bargain collectively. It’s a much fairer process.”

Bittle said that Google and Facebook have been trying to “muddy the waters” on the role of the Canadian Radio-television and Telecommunications Commission (CRTC) in the process, clarifying that the CRTC would only be responsible for administering the binding arbitration between the tech companies and news outlets.

“I fully understand that a major corporation that is almost completely unregulated doesn’t want any form of regulation,” Bittle said, adding that the government will continue to bring forward experts and academics to counter Google and

Meta's arguments while the legislation is examined in the Senate.

"We've seen the success of the Australian model; we have seen it benefit small news organizations and large news organizations to help stabilize the industry there," Bittle said. "Ultimately, journalism is important to our democracy, social media companies far less so."

Mandating payment for links flips internet's flow of information on its head: Geist Geist, a law professor and Canada Research Chair in Internet and E-commerce law at the University of Ottawa, told The Hill Times that Meta's announcement should come as no surprise considering that, given the number of options the government could have pursued in order to support the Canadian journalism sector, it chose "the riskiest and most problematic approach of all."

"They went directly for mandated payments for links with a framework that, according to [Senator Harder], they're talking about [30-35 per cent] of the news expenditures of every news outlet in Canada," Geist said. "That creates the prospect of massive uncapped liability because the sites themselves don't control the links. And they definitely don't control the expenditures of these companies."

Rather than taking an approach that would have removed concerns that Geist said arise from mandated payment for linking, including the perception of government interference and the independence of the press, it instead took an approach that was "bound to put us in this position."

"Once you take a position that there have to be mandated payments for links from companies whose business model

is really grounded in the free flow of information through links, that will create a tension that is going to be very difficult to deal with or unwind," Geist explained.

Geist said it seems as if the government was intending to "call these companies' bluff" over their threats to block news content on their platforms, noting that, during his testimony before the Heritage Committee on Oct. 21, 2022, Rodriguez had said whether or not Google and Meta blocked Canadian news content on their sites would be a "business decision."

"In doing so, they're playing with core elements of how the internet functions and how many access information online," Geist said, adding that the clash between the government and the tech companies would only serve to harm small and medium-sized online news sources.

"For anyone familiar with how internet commerce and the referral system works, [Bill C-18] flips it completely on its head," Geist said, pointing to the fact that news outlets currently pay for Facebook to advertise their articles as evidence of the value already provided in traffic to news outlets by the free sharing of links.

For larger outlets like the CBC or Postmedia, which already enjoy a significant amount of direct traffic to their online news sites, the disappearance of that value will have a minimal effect, Geist said, but for many smaller, independent, and especially online sources, their business model is premised on trying to use social media and search to develop and find an audience.

"They're the ones that are going to be

hit the hardest by the government's insistence on a mandated payment for links approach," Geist said.

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Figure:

Heritage Minister Pablo Rodriguez says Meta's move to restrict Canadians' access to news on its sites, following similar 'intimidation tactics' by Google last month, is part of a 'disappointing trend' where tech giants 'would rather pull news than pay their fair share.' The Hill Times photograph by Andrew Meade

University of Ottawa professor Michael Geist says the Liberals have chosen the 'riskiest and most problematic approach of all' with their position on mandating that Google and Facebook pay for links. Photograph courtesy of Michael Geist