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Canada would spread wealth, not curb power

New tech bills are a move by government to finance media, cultural industries

Randy Thanthong-Knight Bloomberg

Canada is walking a narrow path in regulating global technology giants, seeking a cut of company profit rather than trying to curb their market dominance.

Prime Minister Justin Trudeau's government has proposed legislation that could raise more than \$1 billion a year by forcing streaming services to fund local media and feature Canadian content. It's pushing search and social platforms, for example, to negotiate commercial deals with news publishers to compensate for losses in advertising revenue.

Efforts to tame tech giants in Europe and elsewhere are centred on fostering competition and imposing fines. But Canada's focus mainly on siphoning money from U.S. companies like Alphabet Inc., Meta Platforms Inc. and Netflix Inc. to local broadcast and news industries.

"This isn't an attack on Big Tech," said Vivek Krishnamurthy, a University of Ottawa law professor who heads the Canadian Internet Policy and Public Interest Clinic. "This is the government trying to finance a lot of its cultural and media policies using the exorbitant prof-

its of big tech."

Heritage Minister Pablo Rodriguez, who introduced the Online Streaming Act and Online News Act in the legislature, said in an interview that the two bills will help "modernize" regulations needed for the internet and will be "fair" to tech companies.

"We want more investments from them but we want to make sure they contribute a little bit more, and to make sure that they're all able to do it, the bills would be extremely flexible," Rodriguez said. "We're taking the lead on some of the legislation and other countries are watching, so it's important that we get it right."

The bills are another step in Canada's history of protecting its media and cultural industries. Government programming rules mean that anyone tuning into local radio stations, for example, will get a healthy dose of Canadian artists from Bryan Adams to Céline Dion. Opponents of the legislation, however, warn it risks creating a dependency on funding from the tech giants, as well as infringing on freedom of speech and privacy.

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While Alphabet's Google isn't outright opposed to the online news bill, spokesperson Lauren Skelly said "we have serious concerns about some unintended consequences" it will have Canadians' ability to find and share news online. The company's managing director for Canada warned in a blog post Monday the legislation risks imposing a "link tax" on search platforms.

Meta didn't respond to a request for comment on the online news legislation, nor did Netflix on the proposed streaming act.

Broadcasters in Canada are required to have between 40 per cent to 60 per cent of their content partly written, produced or performed by Canadians. The streaming bill seeks to force services like Netflix, YouTube and Walt Disney Co.'s Disney Plus to similarly highlight Canadian content and contribute to the Canada Media Fund. The government said in 2020 that it expects to bring in as much as \$830 million in annual revenue from streaming platforms by next year.

While the Canadian content rules work for linear media like television and radio, applying them to on-demand services may violate the Charter of Rights and Freedoms and will require the collection of more personal information than currently necessary, according to one privacy lawyer.

"The way the platforms choose to show content to viewers is determined by the platforms, but informed by the viewers," David Fraser, a partner at the McInnes Cooper law firm in Halifax, said by phone.

"That should be an interaction exclusively between the viewer and the platform."

Although television and film productions that use Canadian cities and wilderness as backgrounds contribute to local services and the economy, they don't necessarily lead to more jobs for Canadian talent.

"The big media giants aren't paying their fair share and they should be," said Eleanor Noble, an actor and president of the Alliance of Canadian Cinema, Television and Radio Artists, which represents more than 28,000 performers.

Extending broadcast rules to streaming platforms could, however, lead to a decline in investment in Canada, according to a former vice-chair of the Canadian Radio-television and Telecommunications Commission, a regulator that would be granted additional power over online content as part of the legislation.

"It takes what has been a period of tremendous prosperity for Canadian film and television production over the last 10 or 12 years and it creates uncertainty," said Peter Menzies, now a senior

fellow at the Macdonald-Laurier Institute, an Ottawa-based think tank. "There was a great opportunity here to create a new Canadian communications act that was centred on the internet," he said, adding the government took "a very preservative position" and "tried to make the internet into broadcasting."

Modelled after similar legislation in Australia, the Canadian online news bill would enable publishers to bargain in groups with tech giants for commercial deals.

Columbia University journalism Prof. Bill Grueskin, who studied the Australian move, estimated by extrapolation of the market size that about \$300 million could be raised annually from the deals between tech giants and news outlets in Canada.

Publications that stand to benefit include Torstar Corp.'s newspapers, including the Toronto Star; the Globe and Mail, owned by the billionaire Thomson family's Woodbridge Co. Ltd; and Postmedia Network Canada Corp.'s newspapers, including the National Post, as well as smaller publications.

But while the bill has been characterized as a win for news publishers, one analyst sees it as a win for the tech companies instead.

"The business model of the platforms remains unchallenged," said Robert Fay, managing director of digital economy at the Center for International Governance Innovation in Waterloo. "What drives those business models is data, and this would allow the platforms to continue amassing the data, which further reinforces their market power."

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