

# The *Online News Act* Could Give Google and Meta Too Much Influence Over Canadian News Organizations Without Enough Transparency About What Agreements Contain

BRIEF TO THE SENATE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS ON BILL C-18, AN ACT RESPECTING ONLINE COMMUNICATIONS PLATFORMS THAT MAKE NEWS CONTENT AVAILABLE TO PERSONS IN CANADA

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Bill C-18, the *Online News Act*, could give Google and Meta greater influence over Canadian news media in the form of new agreements between online platforms and news organizations.

The act would require digital platforms that make news outlets' content available in Canada to negotiate with those outlets to provide compensation for their news content. It would apply to platforms that have a significant bargaining power imbalance with news businesses — in other words, Google and Meta.

Bill C-18 would require compensation agreements with Canadian news organizations in “all markets.” This would include non-profit and for-profit sectors, local and regional markets all across Canada, anglophone and francophone communities, official language minority communities, racialized communities, and Indigenous news outlets. Few news organizations would be left behind.

To pass muster with the Canadian Radio-television and Telecommunications Commission (CRTC), content agreements will need to provide “fair compensation” for news content that intermediaries make available. Agreements will have to contribute to Canadian news market sustainability, and they must ensure an “appropriate” part of the compensation is used to support news production.

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The CRTC will also be charged with ensuring such agreements do not “allow corporate influence to undermine the freedom of expression and journalistic independence enjoyed by news outlets.”

Does this provision on journalistic independence go far enough?

## WHAT COULD AGREEMENTS CONTAIN?

Agreements sparked by Bill C-18 are expected to provide cash payments based on the size of newsrooms. However, under Bill C-18, there is nothing stopping a number of worrying developments that could give digital platforms a growing influence over news organizations.

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These could appear in existing agreements, new agreements sparked by Bill C-18, or side agreements. For example, Meta or Google could provide remuneration (or part of the remuneration) in the form of **training, technical support, technologies or technology licensing discounts** that would deepen the integration of news organizations with digital platform data and technologies.

Such technologies could not only allow data and information about users and news to flow back to platforms (the bill makes no mention of **privacy**), but also shape how newsrooms view and evaluate their own activities.

The door is also open for platforms to **invest in specific capital or projects rather than (or as well as) paying in cash**. This would result in platforms gaining influence over the structure and infrastructure of news organizations and/or the content they produce.

Nothing in Bill C-18 stands in the way of platforms providing compensation in the form of **payments tied to specific journalistic endeavors or programs, or revenue-sharing based on innovative journalism projects**, short of arrangements that would undermine freedom of expression or journalistic independence.

## THE POWER TO SHAPE NEWS

Bill C-18 will also not stop digital platforms from **paying news organizations based on engagement — or another metric based on a platform’s current business model**. Agreements could **incentivize a certain type or amount of content** on digital platforms, such as video content.

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Allowing platforms’ business models to potentially shape news in this way can be bad for news quality. It can result in newsrooms pursuing clicks and platform incentives rather than stories and formats that are important to an informed electorate and citizenry.

**Even if such activities would impede journalistic independence in some ways, prohibiting such activities could equally be portrayed as eroding journalistic independence.** Some news organizations may seek out or welcome such measures.

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News organizations' platform dependency has grown over time, even prior to Bill C-18. It varies by size and type of news organization, with smaller and more independent news organizations less insulated because they have less control over their own data infrastructure and distribution avenues.

## HOW WILL WE KNOW IF THINGS ARE GOING WRONG?

Under the *Online News Act*, agreements between platforms and news organizations will not be made public. This means the public won't know the content of agreements or side agreements, except for the information platforms and news organizations decide to reveal.

The CRTC may have some insight into the nature of these agreements, and an independent auditor will prepare a high-level annual report on the act's impact. However, it's doubtful this report will give real insight into the kinds of arrangements and integrations between news organizations and digital platforms that form.

The *Online News Act* may deepen platform-newsroom integration, transforming the Canadian media landscape broadly and quickly, out of public view — and not necessarily for the better.

## RECOMMENDATIONS

Agreements between platforms and news publishers should be made public. Short of that, the independent auditor report should detail the form, if not the amount, that remuneration takes, including agreements made under C-18 and side-agreements to those. This is a bare minimum to facilitate public and regulatory reflection and debates.

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