



1420 New York Avenue NW, Suite 825
Washington, D.C. 20005
www.technet.org | @TechNetUpdate

June 14, 2023

The Honorable Dick Durbin The Honorable Lindsey Graham Chairman
Ranking Member
Senate Committee on the Judiciary Senate Committee on the Judiciary 711 Hart
Senate Office Building 211 Russell Senate Office Building Washington, D.C.
20510 Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Graham,

In advance of the Senate Judiciary Committee markup on S. 1094, the *Journalism Competition and Preservation Act of 2023* (JCPA), I am writing to share with you TechNet's concerns about this legislation and its potential to undermine the innovation economy and a free and open press.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over five million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

TechNet believes the free and open press is foundational to our democracy, and the rapid growth of technology and the expansion of access to the Internet has better unleashed consumers' ability to read and find news. In fact, the expansion of the Internet, and greater dissemination of content, has provided a lifeline to the print journalism industry, which was in decline during the late 20th century given the rise of cable news, digitalization of classified advertisements, and consumer demand for a wider swath of journalistic content.

Despite these trends and increased opportunities afforded to news publishers, the JCPA would impose an unconstitutional regulatory regime on America's online platforms and exempt news publishers from long-standing federal antitrust law, to the detriment of information access and the free flow of information.

First, the JCPA would replicate the same flaws inherent in prior efforts to subsidize news publishers. Whether it was Congress's attempt to subsidize the print media industry in the face of growing consumer demand for radio news in the 1930s¹, or

¹[History Shows That the News Industry Does Not Need a Handout from Big Tech](#) (August 31, 2022)

the passage of the *Newspaper Preservation Act of 1970* to protect print media from increased consumer demand for television news, efforts to subsidize news publishers run directly counter to changing consumer preferences and fail to achieve their stated objective of maintaining diverse viewpoints.

Second, the JCPA would undermine Americans' ability to access and share news content of their choosing. Specifically, the JCPA's requirements of online platforms to carry and pay for content, regardless of the contents' accuracy and informative value, and in direct violation of consumer preferences is unprecedented and directly conflicts with long-standing Federal policy governing content moderation and case law concerning First Amendment protections for editorial discretion.²

Finally, as drafted, the JCPA provides a roadmap for the trial bar to pursue burdensome litigation through a private right of action that would impose broad costs on the innovation economy without achieving the stated goal of promoting the news industry.

As Congress continues to discuss ways to reshape how publishers and search engines partner, we must be cognizant of imposing disproportionately unfair and harmful obligations on U.S. tech companies that would fundamentally disrupt the Internet while providing safe harbors to other sectors. Efforts to provide news organizations with a safe harbor from federal antitrust laws will ultimately reduce information flow, restrict access to news, and stifle innovation. Additionally, this sets a dangerous precedent that will not achieve the desired outcome – in fact, it may do the opposite. Doing so will put journalism on a less sustainable long-term footing while damaging foundational Internet standards related to the ability to link content online that are crucial for the growth of the innovation economy in the U.S. and around the globe.

We appreciate your consideration of our perspective on this important issue. Please don't hesitate to reach out if we can be a resource on this issue or if you have any questions. I can be reached at cholshouser@technet.org or (210) 286-6276.

Sincerely,



Carl Holshouser
Senior Vice President

²[The JCPA Hasn't Improved with Age](#) (September 1, 2022)