



Sous-ministre Deputy Minister
Gatineau (Quebec) Gatineau, Quebec
K1A 0M5 K1A 0M5

Mr. Yves Giroux
Parliamentary Budget Officer
99 Bank Street, 9th Floor
Ottawa, Ontario
K1A 0A9

Dear Mr. Giroux:

I am writing in response to Information Request IR0650, in which you ask for information about the digital news intermediaries and news businesses that would be subject to the *Online News Act*. In addition, your request asks for cost estimates related to the administration of Bill C-18 and the resources necessary to prepare regulations related to the Act.

The *Online News Act* is a legislative framework that would require large digital platforms to compensate news businesses when their news content is shared on these platforms. This new framework legislation would promote a level playing field between news media and large digital platforms when negotiating fair commercial deals. In addition, the regime would be backstopped by final offer arbitration, which would be administered and overseen by the CRTC. First, please note that the contents of this letter are based on the version of the Bill that was tabled on April 5, 2022, as the final form of the Bill cannot be presumed. The Act would apply to digital platforms that allow access and dissemination of news content on their platforms and that present a significant bargaining imbalance with news businesses. The specific factors that would be applied in the analysis of the imbalance to determine which digital news intermediaries would be subject to the legislation are specified in Section 6 of the Act, as follows:

- platform size;
- whether the platform operates in a market that gives it a strategic advantage over news businesses; and
- whether the platform has a dominant position in its market.

Specific quantitative thresholds against which these factors are to be assessed would be set out in Governor-in-Council regulations, in a public process that would follow Royal Assent. These thresholds could be, for example, global revenue that exceeds an amount to be set by the Governor-in-Council, operating in the social media or search engine market and deriving revenues primarily from digital advertising, and a market share as measured by percentage

.../2

of market or number of Canadian users. These thresholds would, at minimum, include the largest entities that have significant market dominance in their markets, which are, at present, Google in search and Facebook in the social media market.

Regarding the news businesses subject to the Act, section 27 outlines objective criteria that identify organizations as qualifying news businesses. News businesses would benefit from the scheme if they are:

- designated as a qualified Canadian journalism organization (QCJO) under subsection 248(1) of the *Income Tax Act*, or
- entities that:
 - regularly employ two or more journalists in Canada;
 - do business in Canada (content edited and designed in Canada);
 - are active in the production of news content; and
 - are not significantly active in producing content that promotes their interests or reports on the activities of an organization.

News businesses that meet the criteria and are designated by the CRTC would be given the choice to opt into the regime. Because of this opt-in mechanism, and because QCJO status is protected taxpayer information, it would be premature at this stage to provide an exhaustive list of beneficiaries at this time. Once the CRTC has made a decision on whether a news business is eligible to benefit from the regime, its name will be added to a list of eligible news businesses publicly posted on the CRTC website. The potential beneficiaries include:

- newspapers and news magazines, as well as online news companies already designated as QCJOs;
- private and public broadcasters who produce and publish original online news content; and
- non-Canadian news organizations that meet the criteria.

Once the Bill receives Royal Assent, the Governor in Council would publish regulations specifying the application of the Act and the criteria for being exempted from the Act. The CRTC would set out the processes and procedures to implement the Act, including the bargaining process and the process for news businesses to apply to be designated.

Regarding the resources necessary to develop the regulations related to the Act and to administer the Act in comparison to other statutes, the Department of Canadian Heritage estimates that the total cost for the Department to implement the Act will be \$14.5 million over five years to develop legislative and regulatory proposals, engage with stakeholders, and monitor and provide advice

on the legislative regime. Canadian Heritage will continue to evaluate its future resource needs. This estimate was developed based on the costs of administering other statutes, such as the *Copyright Act*, on an ongoing basis.

Regarding the costs associated with the administration of the regime, the 2022 federal budget allocates \$8.5 million over two years to help the CRTC establish a new legislative and regulatory framework for Bill C-18 if the Bill becomes law. The funding in Budget 2022 would not be ongoing, as the CRTC's administration of the regime would initiate a cost recovery process. The CRTC has prepared a letter, at your request, that addresses the potential costs of administering the framework.

More details can be found in the technical briefing deck that was shared with Parliamentarians when Bill C-18 was tabled (enclosed). Canadian Heritage officials remain open to working with your office and maintaining ongoing dialogue regarding the objectives and administration of the *Online News Act*.

Please accept my best wishes.

Yours sincerely,

for / pour

Isabelle Mondou

Enclosure