

Google Canada Brief Presented to the Standing Committee on Canadian Heritage
Bill C-18, *An Act respecting online communications platforms that make news content available to persons in Canada* [Bill C-18]

Table of Contents

[Google & The News](#)

[Overview and background](#)

[How did we get here?](#)

[How does Google interact with news and news publishers?](#)

[Google's contribution to the news ecosystem in Canada](#)

[Demystifying the online advertising environment](#)

[Google's Regulatory Principles and Key Objectives Regarding The News](#)

[Our principles](#)

[Key objectives](#)

[Bill C-18: An Overview of Our Concerns](#)

[Bill C-18: Priority Amendments](#)

Google & The News

Overview and background

At our core, Google's mission is to organize the world's information and make it universally accessible and useful. For twenty years, we've been helping Canadians find what they are searching for online, including relevant and authoritative news content, because we believe that a world that is more informed makes better decisions and leads to better outcomes. In this, we share a common mission with news publishers and journalists, who also seek to enlighten and inform for similar reasons.

Google and the news ecosystem are also aligned in that they both depend on an open ecosystem of expression and knowledge, an open environment for media distribution, and an open environment of discovery and connection. As a result, Google succeeds when our partners succeed, which is why we're committed to helping the news industry succeed on their own terms.

We agree that authoritative journalism is critically important to our democracies, and that the Internet and changing consumer behavior has disrupted the historical business models of major news publishers. News publishers are our partners. Not only do we send them valuable referral traffic and provide technology to help them monetize and grow their audiences, but we've invested significantly to support them in transforming their strategies and models to meet the needs of today's world.



We are eager to work with the Government and policy makers to create a “Canada-made” solution that will ensure a robust future for news in Canada and enable innovation. This is a history-making opportunity for Canada to craft world-class regulations that support innovation, enable the open web, support diverse journalism of all sizes, especially local news and news in rural and remote communities, and fortify Canadian democracy. At the outset, we must be clear: **we agree with the central goal of Bill C-18, to support diverse, sustainable, local, regional and national public interest journalism.** This is why we have spent the past twenty years in Canada working to make that goal a reality.

How did we get here?

The internet has created an explosion in high-quality news creation and distribution. It has lowered costs and barriers to entry, resulting in a diversity of news sources and specialist websites. Consumer behaviors have changed - Canadians can now go to many other sources for information and services they once turned to a newspaper for. This new environment of greater consumer choice has disrupted traditional business models, including for local news publishers.

Originally, publishers used to be the only source of widely consumed information (not just news, but classifieds, lifestyle, entertainment, auto, etc.). Non-news content was their primary revenue generator, with nearly one-third of revenue coming from classifieds. **The emergence of the Internet as a whole, not any specific companies, has been disruptive to publishers’ historical business models and their position in the information ecosystem**, as it led to the development of competing sites that pulled audiences and revenue away from news publishers. According to Accenture, classifieds advertising migrated almost entirely online and, as a result, **57% of revenue lost by Canadian news publishers from 2000-2018 was from the loss of classified ads.** This left news publishers without the other revenue sources that had cross-subsidized their news content.

The same period also saw the emergence of highly efficient and effective forms of online advertising. Online advertising offers advertisers tremendous variety. Online advertising enables advertisers to reach larger and more relevant audiences with greater precision and for considerably less money. Consequently, prices for advertising declined significantly. This led to the growth of the advertising market, as small businesses historically priced out of the market could now afford to access large audiences at home and abroad, allowing them to find new clients. While this was a beneficial development for Canadian businesses and led to an explosion in international exports and commerce, it also made it harder for news publishers to monetize content using their historical advertising model.

How does Google interact with news and news publishers?

Google Search helps users find what they’re looking for, whether that’s a recipe, a new pair of shoes, or an article about a recent newsworthy event. Google does this by presenting users with links to other websites which the users click on to go directly to those sites. Search results can also include just enough information to help the user decide whether the site is relevant to their search, in the form of titles, short text extracts called snippets, and small image previews called thumbnails. Every user who clicks through is another opportunity for a website to gain a subscriber or to monetize through advertising. Sites are in control of whether they appear in Google Search at all, with simple mechanisms

to opt out, and they can also control whether and how much of their content can be used to give context to their links. If a site operator wants to be linked to without thumbnail images and with snippets only up to 100 characters, it has that choice already.

News websites work just like other websites on Search: our links generate valuable referral traffic for them, so most choose to be included in search and to enable snippets and thumbnails - and even hire professionals to enhance their presence in search (a field called “search engine optimization”).

Additionally, we have other surfaces that provide valuable referral traffic to our news publishers partners. Google News is a computer-generated news service that aggregates results from news sources worldwide, groups similar stories together, and presents links to them. Google News does not show ads and does not generate revenue. Google Discover provides a personalized feed of links and information on mobile devices such as Android and iOS. Discover provides a way for users to stay in-the-know on topics they care about and inspire them to explore those topics further.

In all of these cases, it is important to note that **Google does not “steal” news content**. Links, snippets, and thumbnails of news content are in Search because news publishers want them there. Many news publishers take affirmative steps to place their content in Search, they have always been able to opt out of having their links, snippets, and/or thumbnails included in Search, and we only use those short extracts and links in order to help users visit their websites. The ability for anyone to freely link to content is the foundation of the world wide web, and is not only permissible, it is essential to communication online. The Supreme Court of Canada has recognized that hyperlinks are “indispensable” to the “Internet’s capacity to disseminate information,” observing that “the Internet cannot, in short, provide access to information without hyperlinks. Limiting their usefulness ... would have the effect of seriously restricting the flow of information and, as a result, freedom of expression.”¹ Most people click on links and share links every day, all for free. For instance, if you are reading this brief online, you probably accessed it by clicking on a free link posted to a website, or appearing in search results, or sent to you in an email or message. Linking is integral to all search engines, including Google, as well as most online services, including social media, news aggregators, electronic newsletters, etc.

Through links in Search, Google sends a substantial volume of valuable referral traffic to publishers—in essence serving as free lead generation they would otherwise have to buy advertising to receive. In the last year, Google also sent more than **3.6 billion visits to Canadian news publishers** - at no charge - helping them make money with ads and new subscriptions. According to Deloitte, this traffic drove an estimated CAD\$250 million worth of value.² Further, news publishers themselves rely upon free linking and quotation for the purpose of reporting and referring to sources, which is in line with international copyright law and the majority of copyright regimes. While publishers can opt out of being included in

¹ *Crookes v. Newton*, 2011 SCC 47 at paras 34 and 36 (internal quotation marks omitted).

² More specifically, A study by Deloitte in Europe valued each such visit between €0.04-0.06 — which equates to approximately CAD\$250 million in value going to publishers each year when applied to the Canadian market. See Deloitte, *The Impact of Web Traffic on Revenues of Traditional Newspaper Publishers* (March 2016): <https://www2.deloitte.com/uk/en/pages/technology-media-and-telecommunications/articles/the-impact-of-web-traffic-on-revenues.html>

Search, most do not because they find referral traffic from all sources to be very valuable.

Further, **Google does not earn meaningful revenue from news.** While Google drives substantial traffic to news publishers, businesses prefer to advertise on queries that express interest in buying a product or service (shoes, vacations) rather than queries about breaking news. Additionally, news represents a very small proportion of overall searches. Last year, news queries accounted for about 2% of people's Search queries in Canada, and revenue earned from clicks on ads against possible news-related queries in Canada represents a fraction of the value we provide to publishers in the form of referral traffic.

Google's contribution to the news ecosystem in Canada

In addition to providing local news organizations with valuable referral traffic, we created a wide array of products, partnerships and programs designed to contribute to the creation of a sustainable landscape for journalism and the news industry. These include:

- **Google News Showcase:** Google News Showcase is a product and licensing program that pays publishers for highly curated news content, providing a space for newsrooms to curate their content for readers across Google News and Discover. These deals help support Canadian newsrooms that provide comprehensive general-interest news to the communities they serve. In Canada, we have signed agreements with publishers representing more than 150 publications across the country, in both official languages, from coast-to-coast-to-coast. The majority of these publications represent local or community news - from the Salmon Arm Observer, to the Yukon News, to Le Nouvelliste to the Cape Breton Post.
- **Google News Initiative (GNI):** Through GNI, we provide tools, training, and funding to help news organizations thrive in the digital age. GNI includes a more than \$300 million funding commitment to the future of the news industry globally, and we continue to make investments in the Canadian news ecosystem to advance the practice of quality journalism and strengthen and evolve publisher business models. GNI programs include:
 - **News Lab:** In June 2021, we made a three year commitment to train 5,000 Canadian journalists and journalism students on strengthening digital skills in newsrooms. In the last year, we've trained over 1,300 journalists, including students, independent journalists, journalists from newsrooms big and small, journalists from across the country, and journalists that serve underrepresented communities. Programming has been delivered in both English and French.
 - **GNI Startups Boot Camp:** A free program designed for aspiring Canadian news entrepreneurs to launch independent digital publications for communities that are most in need of accurate and impactful news.
 - **GNI Innovation Challenges:** This challenge provided funding and support for projects that drive digital innovation, funding projects focused on helping local publishers think about new ways to understand, enhance and serve the needs of their communities.
 - **Global News Equity Fund:** A multi-million dollar commitment to provide grants to news organizations that are owned by or serve underrepresented communities around the world. Independent journalists and small- and medium-sized news

organizations in Canada producing original news for minority and underrepresented audiences are eligible to apply for funding to support and expand their news operations.

- **Products for Publishers:** Google also offers tools to news publishers such as Subscribe with Google, analytics products to enable publishers to easily convert users into paying subscribers, and underlying **advertising technology** to enable publishers to monetize their content. When publishers choose to use our advertising services, they keep a [significant majority](#) of the revenue that's generated. Our ad tech fees are consistent with or lower than reported industry averages, and every year, we pay out billions of dollars directly to the publishing partners in our ad network.

Demystifying the online advertising environment

A common misunderstanding, originating from a report produced by the Canadian Media Concentration Project, is that Google and Meta collectively account for over 80% of online advertising in Canada. But that report is not accurate, as it only included Google, Facebook, Twitter, and Canadian media organizations in its definition of the market and it does not consider the pie has grown with Canadian companies advertising outside of Canada. The online advertising market is highly dynamic and competitive, and Google is only one of thousands of companies powering digital advertising, including Meta, Twitter, Amazon, Microsoft, Yahoo!, Adobe, Comcast, News Corp, Oracle, and Verizon, and lesser known leaders like Telaria, Rubicon Project, The Trade Desk, Index Exchange, MediaMath, and OpenX.

Google operates within a highly competitive online advertising environment. The **average large publisher uses at least six different services** to sell ads. In light of this fierce competition, internet advertising prices have fallen by 40% over the past 10 years, while fees charged by advertising technology companies for the automated services they provide to advertisers and publishers have declined as a percentage of spend. This has allowed small businesses that were historically priced out of the market to access online advertising and for Canadian companies to find customers all over the world, growing the market tremendously. In short, Google has grown the pie for Canadian businesses of all sizes allowing them to reach new markets they could not reach in the age of printed classifieds. Our products and services drive incredible value for the Canadian economy. For instance, in 2021, our products and services helped generate \$37 billion in economic activity for Canadian businesses, nonprofits, publishers, creators and developers, equivalent to 1.5% of Canada's total GDP. At the same time, these industry-wide trends have also made it more difficult for news publishers to monetize using their historical advertising model, as competition has driven down pricing.

Moreover, Google's display advertising business operates on a revenue share model, and the **vast majority of Google's display advertising revenue actually flows to publishers**, including news publishers.

The resources below go into greater detail on how publishers use our ad technologies to earn revenue, including how our revenue shares work across various services:

- [Answering your top questions about Google's advertising technology](#)

- [A look at how news publishers make money with Ad Manager](#)
- [How our display buying platforms share revenue with publisher](#)

Google's Regulatory Principles and Key Objectives Regarding The News Ecosystem

Our principles

In our view, thoughtful public policy to support the news ecosystem should be informed by the following core principles:

- **Respect and maintain a free, vibrant and competitive press.** Any policy must enable new innovative players and sustainable business models and be cautious about protection of legacy interests. It should stimulate creative thinking around news gathering, distribution and business models, and not limit publishers' incentives to innovate or ability to build & grow sustainable business models. It must avoid structures that could enable undue government or private sector influence on the news industry and free expression and maintain trust in news by avoiding the appearance of influence.
- **Actively support diversity and inclusivity.** Diversity of views, diversity of business models, and regional and linguistic diversity are essential to the design of effective public policy. We must acknowledge that many historically marginalized voices were not fully recognized in the legacy media and support emerging models that enable these voices.
- **Preserve the open web.** The open web and the free expression it enables have brought tremendous benefit to Canadians, especially those who were not necessarily reflected in legacy media. It has enabled innovative entrants and business models, and diversity of voices. Any policy must preserve this openness and avoid threatening it.
- **Enhance collaboration and avoid creating transactional relationships between platforms and publishers.** Publishers are our partners and we are deeply engaged with them. We share the goal of providing users with access to authoritative information. Any policy should avoid transforming a mutually beneficial collaborative relationship into a merely transactional one, and recognize the full value exchange that occurs between platforms and publishers.

Key objectives

Building on these principles, we believe that any public policy or regulatory solution intended to support the news ecosystem should be focussed on achieving the following key objectives:

- **Enabling an inclusive news ecosystem.** It is essential that financial support goes to the creation of public interest journalism. The existing framework of "Qualified Canadian Journalism Organizations" addresses this in a considered and balanced manner. Google has used it as a model for the inclusion criteria for Google News Showcase.
- **Supporting innovative journalism.** We must ensure that financial support goes toward strengthening newsrooms of all sizes, including digital players creating public interest journalism, and not just the large, established players. Along these lines, it is also essential that

any funding is going directly to support journalism and newsrooms, not hedge fund bank accounts or shareholder dividends. Similarly, we must recognize that many smaller, independent publishers benefit from non-monetary support, such as training and capacity building, and ensure the approach includes these types of contributions.

- **Distribution of financial support.** Many are concerned that a model of individual publisher deals can be biased toward large influential players, including foreign owned players who compete for domestic views. A single pool of funds, gathered from services that earn revenue from news, with clearly established and objective eligibility, contribution and distribution criteria could be a simpler approach and lessen concerns of fairness.
- **Protecting the open web.** Free linking is the foundation of the free and open web. It is what enables all Internet users to link to sources and has allowed a diverse marketplace of voices and expression to flourish. Reproducing links, headlines, and snippets is permissible under Canadian copyright so that news publishers, critics, and others can quote or cite. Given its critical importance, there should be no payment for links, headlines, and snippets.
- **Fairly assessing the value exchange between publishers and platforms.** The value exchange with publishers must be fully and fairly considered, whether that be assessing the “revenue Google makes” from enabling public interest journalism to be found via Google Search or the volume of traffic that flows to news publishers as a result of users links to news articles in Google Search.
- **Resolve disputes quickly and fairly.** It is important to support expedited dispute resolution and to avoid unpredictable and potentially unbounded costs, especially when the content in question is not revenue generating. Any regulation should include a fair escalation path for dispute resolution agreed to by all parties.

Bill C-18: An Overview of Our Concerns

Google is passionate about promoting a vibrant news ecosystem, helping Canadians access the news, and ensuring that news organizations are equitably compensated for what they do. Our desire is to work together in crafting legislation that will achieve these shared objectives. We are concerned, however, that the current text of Bill C-18 would put at risk these very goals. We believe that Bill C-18, in its current form without amendments, could result in the following:

- **Bill C-18 could create a lower standard for journalism in Canada.**

The proposed law uses an extremely broad definition for “eligible news businesses” and doesn't require eligible news outlets to follow basic journalistic standards. The bill would effectively subsidize any outlet that “explains current issues or events of public interest.” This means that any opinion or commentary blog with two or more people could be eligible to receive funds. It also means that foreign state-owned outlets could be eligible, even if they are known sources of misinformation and propaganda.

In other words, the bill would force Google to subsidize outlets that do not adhere to any journalistic standards, creating a regime that allows bad actors and those peddling misinformation to thrive and profit. This stands in stark contrast to the thoughtful and considered [Qualified Canadian Journalism Organization criteria](#), the qualifying criteria for today's journalism tax credits. This signals that the

Government expects DNIs to financially support news outlets that the Government itself is unwilling to support. We have to believe this isn't the outcome policy-makers intended.

- **Bill C-18 could make the Internet unsafe for Canadians, to the benefit of spammers and peddlers of misinformation.**

Canadians trust Google to connect them to the most relevant and authoritative news and information. The current bill could allow blogs, foreign state-owned media, or any other "eligible news business" to insist on artificially inflating their ranking in search results, preventing Google Search from presenting you with the most reliable and useful content, making Search (and the internet) less useful and less safe.

We work hard to ensure that Canadians don't come across harmful content on Google Search. But the "undue preference" section of the Bill prohibits a platform from "disadvantaging" or "discriminating" against any "eligible news businesses," without defining what the term means. The provision could result in prohibiting basic search ranking and content moderation, rendering us liable for not displaying spammers, foreign propagandists, and those who seek to mislead and defraud you.

This is not a hypothetical concern. Under similar language in Germany, variable-quality news sources complained that we discriminated against them by showing authoritative government health information during the pandemic above links to their sites, and a media regulator agreed. Further, we are currently being sued in France by a purveyor of COVID misinformation to force their content into our service despite our policies.

Our highest priority is connecting people to relevant and reliable information, and we share the desire of Canadian policy-makers to fight against misinformation. Unfortunately, the current version of Bill C-18 works explicitly against these goals.

- **Bill C-18 would break Google Search. For everyone.**

Right now, anyone can search for information and find relevant websites. Publishers and businesses want to be found by Canadians. If they don't, they can easily opt out of Search. Bill C-18 would change this, requiring companies like Google to pay news businesses simply so that we can help users find what they are looking for.

This is what's commonly known as a "link tax" and, regardless of what you call it, it fundamentally breaks the way search (and the internet) works.

The ability to link freely between websites is fundamental to how the internet works and to free expression. Canadians expect that when they search for information, they will have access to ALL the content the internet has to offer. Requiring payment for links risks limiting Canadians' access to the information they depend on. Bill C-18 would break this critical principle of the internet for everyone.

Further, the ability to quote and cite to sources freely is foundational to conveying information. Without it, journalists could not publish news articles, which is why the right to quote is guaranteed in international copyright treaties. This Bill expressly strips certain platforms, and only those platforms, of that right. Not only does this compromise those platforms, it is expressly discriminatory.

Similarly, applying this obligation exclusively to a small group of platforms to benefit a small, specific class of publishers is logically inconsistent. Why do news publishers get paid when government or other non-news informational sites do not? Why are only certain platforms obliged to pay, while others are not? According to web analytics firm parse.ly, search only accounts for 20-30% of traffic to news websites, and most publishers receive the vast majority of their web traffic from social, aggregators, apps, newsletters and others. Given this diversity of sources that deliver traffic to news websites, the selective application of the rule is nonsensical.

- **Bill C-18 would establish a model that will benefit large publishers over smaller ones.**

Bill C-18 benefits large publishers who have the resources and capacity both to negotiate and to stand up and manage a collective, two characteristics that will ultimately accrue to their benefit. While the bill allows for collective bargaining, this still benefits large publishers, as smaller publishers will not have the resources to engage in the negotiation process. The model also disincentivizes non-monetary support, such as training and product support, which is also often more useful to smaller publishers.

Further, by establishing “making news content available”, including linking to news content, as the basis for payment, this also benefits large publishers over small ones, as large publishers have more content to be linked to. This also incentivizes quickly produced, low quality, clickbaity content over long form, investigative public interest journalism, which is contrary to the underlying public policy objectives C-18.

It is for these reasons we support the concept of a fund model over a Code-type approach. A fund could follow established and known models like that of the Canadian Media Fund, with platforms contributing to an independent fund in accordance with a predictable and transparent formula, which in turn would disburse that funding to eligible publishers in accordance with objective criteria. To ensure benefits flow to small, independent and diverse news publishers, a percentage of the fund could be allocated exclusively to that class of publisher as appropriate. This approach would obviate the requirement for undue preference provision, payments for links, dispute resolution or the necessity of significant CRTC engagement except oversight of fund or collective. Further, it would increase transparency as contribution and disbursement criteria and amounts would be public. It would provide platforms with predictability and certainty, and avoid potential liability for core product functions.

- **Bill C-18 would give regulators unprecedented influence over news.**

The bill gives the Canadian Radio-Television and Telecommunications Commission (CRTC) unprecedented and sweeping new powers to regulate every aspect of the Canadian news industry. The CRTC would be responsible for determining who is a journalist, what is an eligible news business, and how much money will be directed to each entity — decisions far outside its expertise as a broadcast regulator. It would oversee and govern all negotiations between the news publishers and technology companies, including setting mandatory terms, while also resolving any resulting disputes and having the power to issue penalties. The bill would also give the CRTC virtually unlimited authority to demand information from both platforms and news business, essentially dictating the terms of private commercial agreements. The bottom line is that the CRTC would have enormous power when regulating the news Canadians rely on, with few if any checks and balances.

Bill C-18: Priority Amendments

We believe that the following amendments would help mitigate the challenges listed above. We have appended a more detailed summary of our proposed amendments, along with an amended version of the Bill, for your consideration.

- **“Undue Preference” (s. 51):** Clarify the “undue preference” language in Sections 3(3), section 51(b) and section 51 (c) to ensure that Google would not have to prohibit features that elevate information from trusted sources (including government information) or reduce low quality information (including from eligible foreign state media outlets).
- **“Making Available” (ss 2(2), 24):** Limit “making news content available” to “displaying news content,” and clarify that copyright limitations and exceptions still apply. This would subject DNIs to the regime while avoiding payment for links, a “link tax”.
- **“Eligible News Business” (s. 27):** Limit to Qualified Canadian Journalism Organizations (QCJO) or equivalent. Require Eligible News Businesses (ENBs) to use compensation to support news content and membership in news media council, but eliminate req for 2 or more journalists.
- **“News Content” (s. 2(1)):** Limit to alphanumeric text of a journalistic nature, which aligns scope with the Broadcasting Act and focuses the regime on journalistic content.
- **“Digital News Intermediary” (ss. 2(1), 6, 7):** Exclude audio-visual platforms and ads platforms. Add thresholds to “significant bargaining power imbalance” (SBPI) test for news-related revenue earned by DNI and inbound traffic received from DNI, or replace SBPI test with fixed traffic threshold aligned with political ads regulations and/or a news-related revenue threshold. Recommend proactive registration requirement for all platforms making news content available to Canadians, and then require CRTC to conduct subsequent analysis to determine whether platform was in scope as a covered “DNI” rather than require platforms to self-assess. This will establish more predictable, objective thresholds for inclusion, and avoids the CRTC making competition decisions.
- **Exemption (s. 11):** Revise exemption criteria to set clear and objective requirements on what is required to obtain an exemption, including 1) inclusion of all arrangements, proposals and other resources and 2) offers to news publishers serving a specific percentage of Canadians. Exemptions should apply to all obligations, not just the obligation to bargain, and should last for a set time. The CRTC should set clear thresholds for exemption criteria. This will add clarity to the exemption criteria and allow DNIs to know what is required to obtain exemption.
- **Dispute Resolution (ss. 19, 38, 39):** Establish a mediation process. Remove directions to the arbitration panel, and revise to reflect standard commercial arbitration with established timelines. This will address issues with final offer arbitration when valuations are uncertain, and allows the panel to consider evidence without interference, while establishing clear timelines for resolution.
- **Collective Bargaining (ss. 48):** Revise to require CRTC to establish a Code of Conduct to govern collective bargaining (including governance rules, audit powers and transparency requirements) and require ENB collectives to adhere to the Code to qualify.