



December 12, 2022

The Honorable Katherine Tai  
United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Ambassador,

I am writing to you on behalf of the News/Media Alliance and our approximately 2,000 member publishers to express serious concerns over the comments made during your meeting with Canada's Minister of International Trade, Export Promotion, Small Business, and Economic Development, Mary Ng on November 30, 2022. According to the readout of the meeting, you expressed "concern about ... pending legislation in the Canadian Parliament that could impact... online news sharing and discriminate against U.S. businesses." We believe this presumed reference to Canada's proposed Online News Act (Bill C-18) fails to represent wider U.S. business interests, in addition to contravening the public policy concerns underlying Canada's C-18 and similar efforts elsewhere, including the United States.

The proposed Online News Act aims to protect local journalism by requiring dominant online platforms to negotiate fair commercial deals with news publishers in order to ensure fair compensation for the use of their content by these platforms. The bill is largely modeled on Australia's News Media Bargaining Code – a landmark legislation adopted last year. Both measures would allow publishers to negotiate collectively and include final offer arbitration as a backstop to failed negotiations. In addition to Canada, the United States is currently considering a similar bill – the Journalism Competition and Preservation Act – and other countries have proposed similar approaches, including the United Kingdom.

The evidence from Australia shows the transformative effects the Code has had on the Australian news media ecosystem. Estimates suggest that the compensation received by Australian publishers as a result of the Code (despite no platform having yet been officially "designated" under the law) amounts to the equivalent of 20 percent of the salaries of Australian journalists. Similarly, news publishers are hiring more journalists, with journalism professors noting an oversupply of positions available for their students. And neither has the Code benefited only large publishers, with, for example, County Press Australia and the Minderoo Foundation reaching deals with the platforms on behalf of many small publishers. In short, the Code has played a vital role in revitalizing the Australian news media market and protecting the sustainability of high-quality journalism in Australia.



These efforts to protect the availability of and access to journalism are a response to the existential struggle far too many publishers face in the digital environment controlled by a few dominant platforms. Numerous studies, reports, and investigations have shown without question the ways that these platforms impose unfair terms on news publishers and other actors in the online ecosystem and reap the majority of the benefits, including digital advertising dollars and user data. The legislative measures – in Canada, other countries, and the United States – aim to correct these market failures and rebalance the online marketplace by making sure the platforms cannot benefit from publisher content without compensation. They are focused on tackling specific business practices by those with the most power – regardless of their national origin. The fact that many of the dominant companies engaging in these damaging practices, and therefore affected by the legislations, are incorporated in the United States does not make these laws discriminatory.

Publishers in the United States stand firmly with our international partners in supporting laws to combat market abusive business practices in the online ecosystem, including the Online News Act. Not only do many of our members have readers or operations in Canada, we strongly believe that such laws correspond with the public policy objectives of the United States to protect the free press. The measures also complement each other – the more widespread they are, the harder it will be for the online platforms to circumvent them.

We are particularly concerned over the comments made during the meeting with Minister Ng due to the similar remarks made previously by the USTR with regards to the Australian Code, as discussed in the attached letter we shared with you last year. As we noted then, we note again: We strongly believe that the Office of the USTR should represent the whole of the United States, not the interests of a few large companies. Doing so repeatedly risks undermining the credibility of the United States internationally. Expressing concerns over efforts to protect the sustainability of high-quality journalism – especially at a time when local newspapers are struggling, and the United States Congress is considering similar measures – is particularly disconcerting both from a public policy and public interest perspective. Once again, acknowledging the need for USTR to balance the views and interests of different U.S. industries, we urge you to refrain from taking positions that benefit one sector of the U.S. economy at the expense of others.

Sincerely,



Danielle Coffey  
Executive Vice President & General Counsel  
News/Media Alliance

