

Journalism Competition and Preservation Act (JCPA)

Talking Points & Message Guidance

KEY TAKEAWAY: We urge you to support the Journalism Competition and Preservation Act (JCPA) to ensure that news publishers are fairly compensated by Big Tech for the value of their content.

RE-INTRODUCTION OF THE JCPA

The Takeaway: The JCPA has been re-introduced in the 118th Congress to help sustain news publishers and therefore protect the American free press and the informed society it supports.

Supporting Points:

- The 2022 JCPA had broad, bi-partisan support in both the House and the Senate, with 90 total co-sponsors. More than 300 consumer interest groups, unions, conservatives, advocacy groups, and third-party organizations sent letters of support; over 24,000 individuals signed a Change.org petition for the bill; and nearly 1,000 editorials were published in support of the JCPA in 48 states across the country. In a poll, 70% of Americans said they supported Congress passing the JCPA.
- With the broad support for the bill and Big Tech companies, namely Google and Facebook, continuing to jeopardize the future of local journalism, the hope is that the JCPA will be passed in the new Congress.

FREE PRESS IN CRISIS

The Bottom Line:

Local journalism – which is vital to maintaining an informed and active citizenry – is under threat. By not paying them fairly for their content, Big Tech has driven many of these local outlets out of business. If Congress doesn't pass the JCPA, even more communities across our country will lose their local news coverage.

- 1. A free and diverse press is the backbone of a healthy and vibrant democracy, but local newspapers across the country are under incredible financial pressure and in jeopardy of going out of business.**

Smaller towns are increasingly left in news deserts, leading to a breakdown in the cohesion of communities and leaving no one to keep in check those in positions of power, including local politicians and other government officials.

Supporting Points:

- Credible journalism is key to sustaining civic society, and we must ensure that the people who create journalistic content are compensated for their work.
- With Freedom of the Press enshrined in the Constitution, it is imperative to take reasonable and meaningful steps to protect this important institution.
- Local journalism strengthens communal ties and provides information at a deeper level that national outlets cannot match.
- The public rightfully trusts their local newspapers – 73% of US adults surveyed said they have confidence in their local newspaper, compared to 55% who have confidence in national network news.

2. **One of the largest problems facing journalism is that control of access to trustworthy news online has become concentrated on just two platforms: Facebook and Google.**

Supporting Points:

- Facebook and Google exert their dominance over the digital marketplace, setting the rules for news publishers and determining how journalism is displayed, prioritized, and monetized.
- Google and Facebook capture the vast majority (70%) of all digital advertising dollars.
- Americans increasingly access journalism via Google search or social media platforms such as Facebook; these platforms have a “duty to deal,” an obligation to provide access to important news, and they must do so fairly.
- America’s Founders enshrined protections for a press free from government regulation in the First Amendment to the U.S. Constitution, but the Founders could not have envisioned a future in which nearly all news and information would be controlled by two private entities.

3. **Artificial Intelligence or “AI” offerings trained by quality journalism must compensate those who create the content. Big Tech platforms are using news publishers' content to train their new generative AI applications without properly compensating publishers, while also not adequately attributing to news sites that serve as sources. The JCPA would correct this by including compensation for news publishers for platforms' use of their content for AI technology.**

Supporting Points:

- The production of journalism requires real journalists, as generative AI content is limited in its journalistic capacity. Publishers and journalists are valuable trusted sources to help maintain an informed and active citizenry and should be compensated for their work.
- The development and use of AI systems and applications – as well as the drafting of policies and laws regulating such uses – must be founded on an unwavering respect for the rights of those whose content may be used to train or power such AI applications, or supply the results displayed by them.

WE NEED TO LEVEL THE PLAYING FIELD

The Bottom Line:

We must pass the JCPA to ensure that publishers – especially small and local publishers – are compensated fairly. These publishers work tirelessly to report news and write content, yet Big Tech companies are the ones who profit most from their work. This is fundamentally unfair, and the JCPA will bring about much-needed change.

4. **There must be a fair exchange for the significant value news publishers' content provides to Google and Facebook, so publishers can continue to invest in journalism.**

Supporting Points:

- Despite record audiences – news organizations reach more than 135 million US adults each week – revenue produced by US news publications has dropped by more than 50% in recent

years due to the distortive effect of news content being distributed by the dominant digital platforms.

- Thousands of journalists have been laid off and local newspapers have shuttered because of diminished revenues and inadequate (or total lack of) compensation by the platforms.
- News publishers provide must-have content for the tech platforms to capture viewers. Publishers deserve fair compensation for the value they bring.
- Big Tech platforms hoard critical data and use clever tactics such as reframing stories in rich previews to keep users inside their walls and ultimately deprive publishers of the ability to monetize their content.
 - Local newspapers lack access to data from Big Tech platforms that would allow them to better monetize their offering and improve their advertising effectiveness.
 - Facebook admitted in its recent earnings results that not having access to data because of Apple's new targeting rules for iPhone users will impact its advertising revenue.
- It is simply impossible for most individual news publishers to challenge the basic terms offered by Big Tech because these platforms are too big.
- Ad revenues for Facebook and Google are **four times** larger than for all US news publishers combined – which is why they have been the targets of multiple antitrust lawsuits.
 - The tech platforms can capture all of this revenue because of a host of anticompetitive tactics that extract monopoly rents in every aspect of the search and online advertising business.
 - Google's Q1 2022 ad revenue was \$68 billion – an annual increase of 23%.
 - Facebook's Q1 2022 revenue was \$26.998 billion – an annual increase of 6%.

HOW THE JCPA CAN HELP

The Bottom Line:

In order for American democracy to thrive, Congress has a duty to make sure that every industry of our economy is operating fairly and that major economic players are conducting business responsibly. Big Tech companies have used their power to manipulate the industry for their own financial gain, and the government has failed to step in. Elected officials have a responsibility to pass the JCPA now in order to rein in Big Tech and restore fairness to one of the most important industries in America.

- 5. The JCPA is reasonably and specifically tailored to ensure that small and local news publishers have the ability to negotiate fair compensation with Big Tech to ultimately improve the quality and accessibility of reporting and ensure local journalists are able to continue their critical work.**

Supporting Points:

- The JCPA is a bipartisan bill that provides a narrow and limited antitrust safe harbor for news publishers to collectively negotiate with Facebook and Google for fair compensation for the use of their content.
- The JCPA would help flow subscription and advertising dollars back to publishers, helping to protect credible news and encourage competition.
- The bill has been revised to focus on small and local news outlets as the beneficiaries of the JCPA, with a cap that excludes the large national publications and broadcasters.

- The JCPA also now includes an arbitration mechanism to ensure the platforms participate in good faith negotiations and that small and local news publishers are fairly compensated.

Additional points often stressed by majority of Progressives:

- Big Tech's dominance over news distribution is threatening quality journalism critical to a functioning democracy, and the cost of inaction – the spread of misinformation, the decline of local journalism – is too great to continue to ignore.
- The dominant tech platforms are built to favor content that drives clicks, which favors dangerous misinformation that undermines the fabric of our democracy.
- The platforms' revenue models are structurally built around distributing content that divides us.
- Ironically, Big Tech is protected by U.S. antitrust laws, which prevent small and local publishers from organizing and reflecting their market power.

Additional points often stressed by majority of Conservatives:

- The JCPA is content neutral and conservative publications such as the Daily Caller, Newsmax, Washington Times, and Breitbart cannot be excluded under the First Amendment.
- JCPA's benefit to conservative news publishers and broadcasters may be most valuable because conservative publications and journalists have proven more likely to be victims of viewpoint discrimination by the Big Tech companies.
- Collective bargaining is not compulsory. Any newspaper can choose not to negotiate at all.

Addressing Conservative Critiques

Some critics claim that the JCPA would actually give Big Tech more power to discriminate against smaller publications – particularly those whose political views they don't agree with – in order to demonetize these outlets. However, this is not accurate. The JCPA is written to prevent Big Tech companies from engaging in this behavior, and an arbiter from the federal government will be an intermediary in all negotiations in order to prevent this from happening.