



Computer & Communications Industry Association  
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NetChoice



March 6, 2024

Illinois State Senate  
Senate Executive Committee  
401 S 2nd St, Room 212  
Springfield, Illinois 62706

*RE: SB 3591 (Stadelman) “Journalism Preservation Act” – Oppose*

Dear Chair Castro and Members of the Senate Executive Committee:

The 10 undersigned civil society and industry organizations value free speech and local journalism. However, we write to respectfully oppose SB 3591, the Journalism Preservation Act.

The bill starts from the false premise that there is a “current marketplace imbalance” between digital services and publishers.<sup>1</sup> While there is a serious crisis in local journalism, this crisis has many causes, as explained by a recent report from the U.S. Copyright Office.<sup>2</sup> There is little evidence that online services’ linking to news sites is the cause of this crisis. On the contrary, news sites depend on this linking. The bill itself recognizes this by prohibiting so-called “retaliation;” the news sites get much of their traffic from search engines and news aggregators.

Further, SB 3591 is unconstitutional in numerous ways:

- It interferes with interstate commerce, by imposing a tax on linking to out-of-state content by Illinoisans.

<sup>1</sup> Press Release, Stadelman bills to rescue local journalism called 'most ambitious' in the country (Feb. 28, 2024), <https://www.senatorstadelman.com/news/521-stadelman-bills-to-rescue-local-journalism-called-most-ambitious-in-the-country>.

<sup>2</sup> Copyright Protections for Press Publishers: A Report of the Register of Copyrights (June 2022), <https://www.copyright.gov/policy/publishersprotections/202206-Publishers-Protections-Study.pdf>, at 7-16.

- It violates the First Amendment by forcing websites to link to content against their choice.
- It is in conflict with the Supremacy Clause because it requires payment for the display of headlines, ledes, facts, and other elements of copyrightable works that the Copyright Act provides are freely accessible. For the same reason, SB 3591 is expressly preempted by Section 301(a) of the U.S. Copyright Act.

Putting these serious legal and economic problems aside, this bill would start the internet down a slippery slope. The internet depends on linking, and once Illinois starts taxing links, there would be no end to Illinois (and other states) taxing all kinds of links to other industries favored by legislatures.

The bill also would provide little help to local newspapers or reporters in Illinois. Most of the money would go to large out-of-state publications or out-of-state publications owned by hedge funds or broadcasting conglomerates. At the same time, it would provide financial incentives for clickbait rather than quality journalism, and it would require the subsidization of all kinds of potentially problematic publications that could fit under the bill's broad definitions.

While we have concerns about this bill, we stand ready to work with you on truly supporting local journalism and free expression on the internet.

Respectfully submitted,

Chamber of Progress - Todd O'Boyle  
Chicagoland Chamber of Commerce - Brad Tietz  
Computer & Communications Industry Association – Jordan Rodell  
Illinois Chamber of Commerce - Clark Kaericher  
James Madison Institute – Lindsay Killen  
Library Futures - Jennie Rose Halperin  
NetChoice – Carl Szabo  
R Street Institute – Josh Withrow  
Software & Information Industry Association – Morten Skroejer  
TechNet – Tyler Diers

Cc: Senator Steve Stadelman