

## WHAT THEY ARE SAYING:

# Journalism Competition and Preservation Act (S. 1094)

The Journalism Competition and Preservation Act (JCPA) would allow news organizations to collectively negotiate compensation when a digital service links to a publication's work or news. While the JCPA was initially drafted to be a straight exemption to antitrust laws, it has since evolved into a wide-ranging assortment of duties allowing cartels of venture capital firms to demand money from digital platforms that host news content. If passed, the bill would undermine Americans' ability to access and share news. It would also replicate prior failures in antitrust law seeking to subsidize news publishers.

Below is a collection of quotes from Members of Congress, advocacy organizations, news articles, and other research that highlight the concerns with the JCPA's approach to the online news ecosystem and its negative consequences for access to information online.

### **Sen. Alex Padilla (D-CA), [Senate Judiciary Committee Meeting on JCPA](#)**

"[JCPA's] prohibitions on the ability of platforms to take viewpoints into consideration and its overbroad retaliation provision, coupled with compelled arbitration and the ambiguous definition of access, invite a world where platforms will have to pay for content and subsidize outlets they fundamentally disagree with."

### **Sen. Mike Lee (R-UT), ["Breaking the News – Journalism, Competition, and the Effects of Market Power on a Free Press"](#)**

"The last thing I think we should do is to try to solve this or any other competition problem by saying that it's okay to just accept a cartel that it's okay to make changes to the laws to encourage the formation and allow the formation and thereby encourage the formation of a cartel as many publishers are requesting and make no mistake, that's that is what this is. That is what this call is for. And that is what the JCPA would do."

### **U.S. Copyright Office, ["Copyright Protections for Press Publishers"](#)**

"Press publishers have significant protections under U.S. copyright law...Facts and ideas are not protectable by copyright."

### **[TechNet Letter to Senate Judiciary Committee](#)**

"As Congress continues to discuss ways to reshape how publishers and search engines partner, we must be cognizant of imposing disproportionately unfair and harmful obligations on U.S. tech companies that would fundamentally disrupt the Internet while providing safe harbors to other sectors. Efforts to provide news organizations with a safe harbor from federal antitrust laws will ultimately reduce information flow, restrict access to news, and stifle innovation."

### **Authors Alliance, ["The JCPA, Again"](#)**

"The JCPA seems to create a pseudo-copyright regime in which platforms would have to pay for linking to news, which is a radical change in how the internet functions. It also includes

provisions that would effectively force social media platforms to carry certain news outlet coverage, even when a platform disagrees with the views that those news outlets express, thus undermining Section 230 protections for platforms that want to remove false or misleading content from their websites.”

### **Disruptive Competition Project, “[The Return of the JCPA, Third Time Isn’t the Charm](#)”**

“The JCPA would establish a cartel that is contrary to American antitrust policy. Instead of fostering competition, the JCPA could allow publishers to avoid solving the current economic challenges facing journalism. Furthermore, the majority of the bill’s benefits will flow to larger newspaper chains, and the lack of size limitations on broadcasters in the bill ensures that large companies will be its primary beneficiaries. Such an approach undermines competition and discourages the development of innovative news delivery models. “

### **ACLU Opposes Journalism Bill That Would Harm Press Freedoms and Free Speech Online**

“The First Amendment protects a platform’s ability to choose what content it carries. However, the JCPA enables a news organization to force a platform to display their content merely by joining a negotiating entity. By effectively compelling platforms to host the content of a news organization that joins a given negotiating entity, this legislation violates the First Amendment. The bill also harms the very concepts it intends to protect. Rather than increase support for local journalism and reduce news deserts, the JCPA will limit the public’s access to news, and jeopardize the free and open internet that is vital to modern society.”

### **Cato Institute, “[A Link Tax Won’t Save the Newspaper Industry](#)”**

“These proposals falsely presume that online platforms are “free-riding” off the value derived by news publishers’ content—ignoring a value proposition runs the opposite direction. Social media, search and search aggregation services (resources that news outlets actively avail themselves of) generate revenue for the news producers by making content discoverable and in redirecting billions of clicks of traffic to news outlets, free of charge, enabling outlets to further monetize their content through advertising and subscriptions.”

### **Public Knowledge Opposes Faulty ‘Journalism’ Bill Undermining Open Internet and Free Speech Online**

“But the use of an elaborate antitrust exemption like that in the JCPA will only serve to compound the biggest challenges in our news and information landscape: consolidation of power, distance and disengagement of news conglomerate owners from the communities they serve, and the rampant spread of misinformation on the internet.”

### **TechFreedom Coalition Letter, “[Journalism Competition and Preservation Act of 2023 \(S. 1094\)](#)”**

“This bill is substantially identical to the final version of last year’s JCPA, and thus shares that bill’s grave defects. Absent amendment, it will be weaponized against moderation of hate speech, misinformation, and various other forms of online content that are steadily corroding our democracy.”



### **Taxpayers Protection Alliance Slams Senate Judiciary Committee Markup of JCPA**

“The advancement of JCPA is concerning, on a number of levels. Sober estimates show it will cost American tech companies nearly \$2 billion, merely to allow link sharing. This is a backdoor tax on some of the most innovative companies in the world. Far from expanding access to news, this penalizes companies for allowing the free flow of information.”

### **Re:Create Statement On Reintroduction of the JCPA**

“...congressional concerns over the JCPA’s expansive harms to local journalism and opposition to its unbridled financial support for Big Media led to its downfall. Nothing has changed, and the re-introduced JCPA remains shrouded in these same concerns. The JCPA will still undermine the free press, will still create new, internet-changing copyright loopholes, and will still reward only the biggest media companies, and we urge Congress to once again reject this legislation.”

### **R Street Institute, “The Journalism Bailout Link Tax Is Back”**

“Every iteration of the JCPA has varied slightly regarding exactly who is eligible to join one of these rent-seeking media cartels; however, it remains true that the bulk of the negotiating power would rest with large media conglomerates rather than local outlets.”