CBC stands to get largest share of cash from Online News Act, experts say

Bill C-18 is expected to inject $172-million into Canada's news sector, but experts say the CBC is at an unfair advantage over smaller media outlets

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Ottawa - The CBC stands to receive the largest share of the $172-million the federal Online News Act is forecast to pump into Canada's news sector, experts say, raising fears that the new legislation will make it harder for smaller media outlets to compete with the state-funded broadcaster.

The Online News Act, also known as Bill C-18, received royal assent in June and is scheduled to go into effect in December. It is designed to force the biggest online tech giants to compensate Canadian news organizations for posting or linking to their work.

The federal government published draft regulations last week that detail how the bill would apply to Google and Facebook. The regulations say the amount of compensation news outlets receive under the Online News Act should be relative to the number of full-time journalists they employ.

Peter Menzies, who from 2013 to 2017 was vice-chair of the Canadian Radio-television and Commission, the federal institution that will oversee the Online News Act, has analyzed the regulations. He said the CBC, as the biggest employer of journalists in Canada, would likely receive the largest amount of money from the bill.

The extra funding, he said, would "reinforce the status quo" and the CBC's dominant position. It would allow the broadcaster to hire more journalists and receive even more C-18 money in the future, he added.

He said this would make it even more difficult for local media organizations to compete.

"I'm a big fan of having a public broadcaster, but not a large commercial competitor eating everybody else's lunch," he said.

In the 2021-22 fiscal year, the CBC received $1.2-billion in government funding. In 2020-21, it received $1.39-billion.

Former journalist Kevin Waugh, who is now an MP and a member of the Commons heritage committee, which scrutinized the Online News Act, said he and other Conservatives think the CBC "shouldn't be at the trough when they already are subsidized with over a billion dollars."

"CBC from day one should have been excluded from funds from C-18. I have heard from many smaller media organizations that they simply can't compete with the public broadcaster," he said.

He said the Conservatives would repeal the Online News Act if they defeat Prime Minister Justin Trudeau's Liberals in the next election.

Michael Geist, the University of Ottawa's Canada Research Chair in internet law, said the government could have based the level of compensation on criteria other than the numbers of journalists news organizations employ.

By linking payments to the number of full-time journalists, he said, the government is penalizing small media organizations that rely on freelancers, community contributors or content from other sources.

"On the relative compensation issue it's a clear advantage for the CBC and other
big broadcasters, but the smaller players - hundreds of independent media outlets - will lose out," he said.

The federal Heritage Department said in a statement that smaller media outlets would benefit, and could collectively bargain for compensation under the new law.

"The Online News Act supports smaller media in a significant way, bringing them to the negotiation table with tech giants," the statement said.

The draft regulations set a $230-million cap on the amount Google and Facebook would together have to inject into Canada's news sector. But Meta, the parent company of Facebook and Instagram, has said the regulations don't go far enough to convince it to reverse its decision to block Canadians' access to news on those platforms.

Meta is also curtailing its contributions to journalism in other countries. This month, the company announced that it plans to end a program that funds local journalism in Britain. It also said it will wind down its Facebook News tab - a service that showcases news - in Britain, France and Germany.

By dropping news in Canada, Facebook would prevent itself from being subject to the Online News Act, leaving Google the only online platform big enough to be captured by the new law.

The regulations include a financial formula that would make Google inject around $172-million a year into Canada's news industry. To be exempt from intervention by the Canadian Radio-television and Telecommunications Commission, Google would have to make compensation deals with a variety of news organizations, including Indigenous and French-language news outlets. If the company fails to seal these deals it could face mandatory arbitration and bargaining overseen by the CRTC.

The deals must also be "fair" and not deviate much in value from financial agreements with similar-sized news outlets, the regulations say.

An analysis last year by the Parliamentary Budget Officer estimated that broadcasters, including the CBC, would get most of the money from the Online News Act.

Leon Mar, a CBC spokesperson, said the broadcaster is studying the regulations. He said the CBC believes the Online News Act will "contribute to the sustainability of news organizations, at a time when 80 per cent of digital ad revenue goes to Facebook and Google."

"It will help ensure that all Canadian media organizations, regardless of their size, are able to receive fair compensation for the content they produce when that content is used by digital companies to attract and keep people on their platforms and generate revenue," he said.

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