



22 November 2024

Hon. Paul Goldsmith
Minister of Justice
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Fair Digital News Bargaining Bill

Good afternoon,

1. The Free Speech Union is a registered trade union with a mission to fight for, protect, and expand New Zealanders' rights to freedom of speech, conscience, and intellectual inquiry. We believe that freedom of speech is not only a legal principle, but a social good that allows for people in modern liberal democracies to peacefully, freely advocate for the causes they care about without risking unjust retribution.
2. We write to express our concern with the impacts of the Fair Digital News Bargaining Bill ("the Bill") on free speech in New Zealand. We understand the Second Reading of this Bill has been delayed, and we hope this time may be employed to address weaknesses in the proposal being presented.
3. First, from a principled perspective, we are uneasy with government's growing control over information and ideas. Even if the intention of the Bill is to address the power imbalance between large digital platforms (such as Google and Facebook) and news organisations, there is significant risk to individual freedoms and democratic discourse. The Bill would give the Government authority to insist on negotiations between publishers and digital platforms, and, in cases of dispute, to implement compulsory arbitration. Government mediation of these relationships in this manner has the potential to be abused in various ways including, but not limited to:
 - a. Greater government control could be exerted over digital news, potentially indirectly influencing content and diversity of viewpoints.
 - b. Political influence in negotiations may undermine the independence of the press and turn the media into a tool for political power rather than a regulator for democracy.
 - c. More established news organisations with the resources to navigate the negotiation and arbitration processes may disproportionately benefit while smaller, independent, news outlets are sidelined or forced out of the bargaining process altogether. This could further entrench corporate media dominance and silence critical or dissenting viewpoints.
4. Further, the ambiguity of the Bill's current proposals give uncertainty to the platforms, news organisations and its users. Legislation like the Bill has been implemented overseas with disastrous

results. The Online News Act in Canada resulted in Google and Meta Platforms (including Facebook and Instagram) immediately preventing Canadians from accessing news content via their services to discharge their obligations under the new legislation.

5. In Australia, Facebook blocked Australian users from sharing or viewing news content on its platform following the News Media Bargaining Code. Access was reinstated following the Australian Government agreeing to several changes and guarantees. It is apparent these laws not only fail to help the news industry but also disrupt people's access to the open Internet and reinforce the dominance of large platforms. How will the outcome be any different in New Zealand?
6. As you are aware, a form of this Bill was initially introduced by the previous Government (with the National Party voting against it). The current Government agreed to progress it, but with some changes which are still being considered.
7. According to survey results conducted by Curia, provided by a member of the Free Speech Union, the prospect of a news blackout (as threatened by Google) is proving very unpopular: 75% of those under the age of 40 responded that they would be somewhat annoyed or very annoyed if platforms and search engines followed through with the threat, with 52% of those over 60 feeling this way too. Approximately two-thirds of total respondents in the survey would be somewhat or very annoyed. We suspect the Government wants to be seen to be addressing the issue of our struggling legacy media however, greater intervention in this manner will do more harm than good.
8. We invite your comment on the following:
 - a. How the Government justifies its growing control over information and ideas through overseeing negotiations between publishers and digital platforms considering the risk of abuse of this process and the erosion of democratic discourse.
 - b. How the outcome of the Bill will be any different from the disastrous results of similar legislation overseas.
 - c. Whether the unpopularity of the Bill following the release of the survey results will encourage the Government to consider abandoning the Bill.
9. We look forward to hearing from you.

Yours faithfully,

Free Speech Union (New Zealand) Inc.



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