

116TH CONGRESS
1ST SESSION

H. R. 2054

To provide a temporary safe harbor for the publishers of online content to collectively negotiate with dominant online platforms regarding the terms on which their content may be distributed.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2019

Mr. CICILLINE (for himself, Mr. COLLINS of Georgia, and Mr. DESAULNIER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide a temporary safe harbor for the publishers of online content to collectively negotiate with dominant online platforms regarding the terms on which their content may be distributed.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Journalism Competi-
5 tion and Preservation Act of 2019”.

6 **SEC. 2. SAFE HARBOR FOR CERTAIN COLLECTIVE NEGO-**
7 **TATIONS.**

8 (a) **DEFINITIONS.**—For purposes of this section:

1 (1) The term “news content creator” means—

2 (A) any print or digital news organization
3 that—

4 (i) has a dedicated professional edi-
5 torial staff that creates and distributes
6 original news and related content con-
7 cerning local, national, or international
8 matters of public interest on at least a
9 weekly basis; and

10 (ii) is commercially marketed through
11 subscriptions, advertising, or sponsorship;
12 and

13 (B) provides original news and related con-
14 tent, with the editorial content consisting of not
15 less than 25 percent current news and related
16 content.

17 (2) The term “Online Content Distributor”
18 means any entity that—

19 (A) operates a website or other online serv-
20 ice that displays, distributes, or directs users to
21 news articles, works of journalism, or other con-
22 tent on the internet that is generated by third-
23 party news content creators; and

1 (B) has not fewer than 1,000,000,000
2 monthly active users, in the aggregate, of all of
3 its websites or online services worldwide.

4 (3) The term “antitrust laws” has the meaning
5 given such term in subsection (a) of the first section
6 of the Clayton Act (15 U.S.C. 12), and includes—

7 (A) section 5 of the Federal Trade Com-
8 mission Act (15 U.S.C. 45) to the extent that
9 such section applies to unfair methods of com-
10 petition; and

11 (B) any State law, rule, or regulation that
12 prohibits or penalizes the conduct described in,
13 or is otherwise inconsistent with, subsection (b)
14 of this section.

15 (4) The term “negotiation period” means the
16 period of time beginning on the date this Act goes
17 into effect and ending 48 months later.

18 (b) LIMITATION OF LIABILITY.—A news content cre-
19 ator shall not be held liable under the antitrust laws for
20 engaging in negotiations with other news content creators
21 during the negotiation period to collectively withhold con-
22 tent from, or negotiate with, an Online Content Dis-
23 tributor regarding the terms on which the news content
24 creators’ news content may be distributed by the Online
25 Content Distributor, if—

1 (1) the negotiations with the Online Content
2 Distributor—

3 (A) are not limited to price and are non-
4 discriminatory as to similarly situated news
5 content creators, and directly relate to the qual-
6 ity, accuracy, attribution or branding, and
7 interoperability of news; and

8 (B) pertain to terms that would be avail-
9 able to all news content creators;

10 (2) the coordination among the news content
11 creators is directly related to and reasonably nec-
12 essary for negotiations with an Online Content Dis-
13 tributor that are otherwise consistent with this Act;
14 and

15 (3) the negotiations do not involve any person
16 that is not a news content creator or an Online Con-
17 tent Distributor.

18 (c) RULE OF CONSTRUCTION.—Except as provided in
19 this Act, this Act shall not be construed to modify, impair,
20 or supersede the operation of the antitrust laws.

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