

Short Title

**Short title**

1 This Act may be cited as the Online News Act.

Interpretation

**Definitions**

2 (1) The following definitions apply in this Act.

**Commission** means the Canadian Radio-television and Telecommunications Commission. (Conseil)

**covered agreement** means, as applicable,

- (a) an agreement that is entered into as a result of bargaining sessions referred to in paragraph 19(1)(a) or mediation sessions referred to in paragraph 19(1)(b); or
- (b) an arbitration panel's decision that is deemed to be an agreement under section 42. (accord assujetti)

**digital news intermediary** means an online communications platform, including a search engine or social media service, that is subject to the legislative authority of Parliament and that makes news content produced by news outlets available to persons in Canada. It does not include an online communications platform that is a messaging service the primary purpose of which is to allow persons to communicate with each other privately. (intermédiaire de nouvelles numériques)

**eligible** in relation to a news business, means that the business is designated under subsection 27(1). (admissible)

**entity** includes a corporation or a trust, partnership, fund, joint venture or any other unincorporated association or organization. (entité)

**"Indigenous news outlet** means an undertaking or any distinct part of an undertaking, such as a section of a newspaper, whose primary purpose is to produce news content and that

(a) is operated by an individual who belongs to an Indigenous group, community or people; and

(b) produces news content primarily for Indigenous peoples. (média d'information autochtone)

**"Indigenous peoples** has the meaning assigned by the definition **aboriginal peoples of Canada** in subsection 35(2) of the Constitution Act, 1982. (peuples autochtones)

**Minister** means the Minister of Canadian Heritage or, if another federal minister is designated under section 5, that minister. (ministre)

**news business** means an individual or entity that operates a news outlet **in Canada**. (entreprise de nouvelles)

**news content** means content — in any format, including an audio or audiovisual format — that reports on, investigates or explains current issues or events of public interest **and includes such content that an Indigenous news outlet makes available to an Indigenous community by means of Indigenous storytelling.** (contenu de nouvelles) (contenu de nouvelles)

**news outlet** means an undertaking or any distinct part of an undertaking, such as a section of a newspaper, the primary purpose of which is to produce news content **and includes an Indigenous news outlet.** (média d'information)

**operator** means an individual or entity that, through any means, operates a digital news intermediary. (exploitant)

### **Making available of news content**

**(2)** For the purposes of this Act, news content is made available if

- **(a)** the news content, or any portion of it, is reproduced; or
- **(b)** access to the news content, or any portion of it, is facilitated by any means, including an index, aggregation or ranking of news content.

### **Freedom of expression**

**3 (1)** For greater certainty, this Act is to be interpreted and applied in a manner that is consistent with freedom of expression.

### **Journalistic independence**

**(2)** This Act is to be interpreted and applied in a manner that supports the journalistic independence enjoyed by news outlets in relation to news content produced primarily for the Canadian news marketplace, including local, regional and national news content.

### **Treatment of news content**

**(3)** This Act is to be interpreted and applied in a manner that is aimed at ensuring news content is made available by digital news intermediaries without undue manipulation or interference.

### **Purpose**

**4** The purpose of this Act is to regulate digital news intermediaries with a view to enhancing fairness in the Canadian digital news marketplace and contributing to its sustainability, **including the sustainability of news businesses in Canada, in both the non-profit and for-profits sectors, including independent local ones.**

### **Designation of Minister**

### **Designation**

**5** The Governor in Council may, by order, designate any federal minister to be the Minister referred to in this Act.

### **Application**

### **Application**

**6** This Act applies in respect of a digital news intermediary if, having regard to the following factors, there is a significant bargaining power imbalance between its operator and news businesses:

- **(a)** the size of the intermediary or the operator;
- **(b)** whether the market for the intermediary gives the operator a strategic advantage over news businesses; and

- (c) whether the intermediary occupies a prominent market position.

#### **Duty to notify**

**7 (1)** If this Act applies in respect of a digital news intermediary, its operator must so notify the Commission.

#### **Information required**

**(2)** An individual or entity that operates an online communications platform must, at the request of the Commission and within the time and in the manner that it specifies, provide the Commission with any information that it requires for the purpose of verifying compliance with subsection (1) or preventing non-compliance with it.

#### **List of digital news intermediaries**

**8 (1)** The Commission must maintain a list of digital news intermediaries in respect of which this Act applies. The list must set out each intermediary's operator and contact information for that operator and specify whether an order made under subsection 11(1) or 12(1) applies in relation to the intermediary.

#### **Statutory Instruments Act**

**(2)** The Statutory Instruments Act does not apply in respect of the list maintained under subsection (1).

#### **Publication**

**(3)** The Commission must publish the list on its website.

#### **Broadcasting**

**9** This Act does not apply in respect of a digital news intermediary that is a broadcasting undertaking in respect of its broadcasting, as those terms are defined in subsection 2(1) of the Broadcasting Act.

#### **Telecommunications service providers**

**10** For greater certainty, this Act does not apply to a telecommunications service provider, as defined in subsection 2(1) of the Telecommunications Act, when it is acting solely in that capacity.

#### **Exemptions**

#### **Exemption order**

**11 (1)** The Commission must make an exemption order in relation to a digital news intermediary if its operator requests the exemption and the following conditions are met:

- (a) the operator has entered into agreements with news businesses that operate news outlets that produce news content primarily for the Canadian news marketplace and the Commission is of the opinion that, taken as a whole, the agreements satisfy the following criteria:

- (i) they provide for fair compensation to the news businesses for the news content that is made available by the intermediary,
  - (ii) they ensure that an appropriate portion of the compensation will be used by the news businesses to support the production of local, regional and national news content,

- (iii) they do not allow corporate influence to undermine the freedom of expression and journalistic independence enjoyed by news outlets,
- (iv) they contribute to the sustainability of the Canadian news marketplace,
- (v) they ensure a significant portion of independent local news businesses benefit from them, they contribute to the sustainability of those businesses and they encourage innovative business models in the Canadian news marketplace, and
- (vi) they involve a range of news outlets in both the non-profit and for-profit sectors and they were entered into with news businesses that reflect a diversity of business models that provide services to all markets and diverse populations, including local and regional markets in every province and territory, anglophone and francophone communities, including official language minority communities, and Black and other racialized communities;
- (vii) they ensure a significant portion of Indigenous news outlets benefit from them and they contribute to the sustainability of those outlets in a way that supports the provision of news content by and for Indigenous peoples; and

(a.1) the Commission has held public consultations in accordance with any conditions that its Chairperson may specify;

(b) any condition set out in regulations made by the Governor in Council.

#### **Effect of order**

(2) The order exempts the operator, in relation to the intermediary, from the application of

- (a) section 21 and any provision of any regulations made under section 85 that is in relation to section 21; and
- (b) any other provision of this Act and any provision of any regulations made under subsection 81(1) or section 85 that is specified by the Commission, in its discretion, in the order.

#### **Conditions**

(3) The order may contain any conditions the Commission considers appropriate.

#### **Approval of Treasury Board**

(4) The order is subject to the approval of the Treasury Board if the order exempts the operator from the application of section 82 or any provision of any regulations made under subsection 81(1).

(5) The order remains in effect for a period of not more than five years and, subject to this section, may be renewed.

#### **Interim order**

**12 (1)** The Commission may, in relation to a digital news intermediary, make an interim order that has the same effect as an exemption order if the following conditions are met:

- (a) its operator has requested an exemption order in relation to the intermediary;
- (b) the operator has entered into agreements with news businesses that operate news outlets that produce news content primarily for the Canadian news marketplace;
- (c) the Commission is unable to make the exemption order because it is of the opinion that, taken as a whole, the agreements do not satisfy the criteria set out in subparagraphs 11(1)(a)(i) to (vi); and
- (d) the Commission is of the opinion that it will be able to change its opinion because the operator is, in good faith, taking measures that will permit the criteria to be satisfied **within a reasonable period, which period must not be longer than one year.**

## **Conditions**

(2) The interim order must contain conditions respecting the measures being taken by the operator and may contain any other condition the Commission considers appropriate including a condition requiring that public consultations be held at a time and place in Canada to be fixed by the Commission.

## **Approval of Treasury Board**

(3) The interim order is subject to the approval of the Treasury Board if the order exempts the operator from the application of a provision referred to in subsection 11(4).

## **Cessation of effect**

(4) The interim order must specify the period referred to in paragraph (1)(d) and ceases to have effect at the end of that period.

## **For greater certainty**

13 For greater certainty, agreements referred to in paragraph 11(1)(a) or 12(1)(b) include agreements that were entered into before the day on which this section comes into force.

## **Review**

14 (1) For greater certainty, the Commission may review an exemption order or an interim order.

## **Repeal of exemption order**

(2) The Commission may repeal an exemption order if

- (a) the Commission is of the opinion that the operator of the digital news intermediary in question is acting in a manner that is inconsistent with this Act;
- (b) a condition referred to in subsection 11(1) is no longer met; or
- (c) a condition contained in the exemption order is not met.

## **Repeal of interim order**

(3) The Commission may repeal an interim order if

- (a) the Commission is of the opinion that the operator of the digital news intermediary in question is acting in a manner that is inconsistent with this Act;
- (b) a condition referred to in paragraph 12(1)(c) or (d) is no longer met; or

- (c) a condition contained in the interim order is not met.

## Reasons

15 The Commission must publish on its website reasons for

- (a) making or not making a requested exemption order;
- (b) deciding to make or not to make an interim order; and
- (c) deciding to repeal an exemption order or interim order.

## Statutory Instruments Act

16 The Statutory Instruments Act does not apply in respect of an exemption order or an interim order.

## Publication of orders

17 The Commission must publish on its website each exemption order and interim order that it makes.

Bargaining Process

Overview

## Definition of party

18 In sections 19 to 44, **party** means, as applicable, an operator, an eligible news business or a group of eligible news businesses.

## Steps in bargaining process

19 (1) The bargaining process consists of

- (a) negotiation or bargaining sessions over a period of 90 days;
- (b) if the parties are unable, within the negotiation or bargaining period, to reach an agreement, mediation sessions over a period of 120 days, beginning on the day after the end of the negotiation or bargaining period; and
- (b) if the parties are unable, within the mediation period, to reach an agreement and at least one of the parties wishes to initiate arbitration, final offer arbitration for a period of 45 days, beginning on the day after the end of the mediation period.

(1.1) On request of both parties, the Commission may extend a period provided for in any of paragraphs (1)(a) to (c).

## Scope of bargaining process

(2) The bargaining process is limited to matters related to the making available, by the digital news intermediary in question, of news content produced by a news outlet that is identified under section 30 as a subject of the bargaining process and, if an application is made under subsection 31(1), determined by the Commission to be a subject of the bargaining process.

## Scope of final offer arbitration

(3) Any final offer arbitration under the bargaining process is limited to monetary disputes.

## Initiation of bargaining process

**20** Only an eligible news business that is listed under subsection 29(1) or a group of eligible news businesses that are listed under that section may initiate the bargaining process with an operator.

#### **Duty to bargain**

**21** An operator must participate in the bargaining process with the eligible news business or group of eligible news businesses that initiated it.

#### **Good faith**

**22** Parties that are participating in the bargaining process must do so in good faith.

#### Copyright

#### **Initiation of bargaining process**

**23** For greater certainty, an eligible news business or a group of eligible news businesses may initiate the bargaining process in relation to news content in which copyright subsists only if

- (a) the business or a member of the group owns the copyright or is otherwise authorized to bargain in relation to the content; or
- (b) the group is authorized to bargain in relation to the content.

#### **Limitations and exceptions**

**24** For greater certainty, limitations and exceptions to copyright under the Copyright Act do not limit the scope of the bargaining process.

#### **Mediation and final offer arbitration**

**25** For greater certainty, the use of news content is not to be the subject of mediation sessions or final offer arbitration during the bargaining process if the operator in question

- (a) has made payments to the eligible news business in question for the use of that content in accordance with a licence or agreement between the operator and the business; or
- (b) has made payments or has offered to make payments to the business in question for the use of that content in accordance with the relevant tariff approved by the Copyright Board for the use of that content.

#### **Liability of operators**

**26 (1)** If news content is made available by a digital news intermediary and its operator is a party to a covered agreement in relation to the making available of the news content by the intermediary, the operator is not liable under the Copyright Act for an infringement of copyright in relation to activities that are subjects of that agreement.

#### **For greater certainty**

**(2)** For greater certainty, nothing in this Act limits the liability of an eligible news business under the Copyright Act for an infringement of copyright.

#### Eligibility

#### **Eligible news businesses — designation**

**27 (1)** At the request of a news business, the Commission must, by order, designate the business as eligible if it

(a) is a qualified Canadian journalism organization as defined in subsection 248(1) of the Income Tax Act; or is licensed by the Commission under paragraph 9(1)(b) of the Broadcasting Act as a campus station, community station or native station as those terms are defined in regulations made under that Act or other categories of licensees established by the Commission with a similar community mandate;

(b) produces news content of public interest that is primarily focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes, and

- o (i) regularly employs two or more journalists in Canada which journalists may include journalists who own or are a partner in the news business and journalists who do not deal at arm's length with the business
- o (ii) operates in Canada, including having content edited and designed in Canada, and
- o (iii) produces news content that is not primarily focused on a particular topic such as industry-specific news, sports, recreation, arts, lifestyle or entertainment, or
  - (iv) is either a member of a recognized journalistic association and follows the code of ethics of a recognized journalistic association or has its own code of ethics whose standards of professional conduct require adherence to the recognized processes and principles of the journalism profession, including fairness, independence and rigour in reporting news and handling sources.

(c) operates an Indigenous news outlet in Canada and produces news content that includes matters of general interest, including coverage of matters relating to the rights of Indigenous peoples, including the right of self-government and treaty rights.

(1.1) The code of ethics referred to in subparagraph (1)(b)(iv) must include measures for ensuring that no news content that promotes hatred or misinformation against any identifiable group is produced or made available and that any errors of fact are corrected promptly and in a transparent manner.

#### **Commission's initiative**

(2) The Commission may make an order under subsection (1) on its own initiative.

#### **Revoked designation**

(3) Despite subsection (1), a news business must not be designated as eligible if it was previously designated and had its designation revoked under paragraph 59(1)(c).

**“(3.1) Despite subsection (1), a news business must not be designated as eligible if**

**(a) the news business is the subject of sanctions under the United Nations Act, the Special Economic Measures Act or the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), or is owned or controlled by an individual or entity that is the subject of such sanctions; or**

**(b) the news business has its headquarters in a foreign state, as defined in section 2 of the Special Economic Measures Act, that is the subject of measures under an Act referred to in paragraph (a).**

(3.2) If a news business described in paragraph (3.1)(a) or (b) was previously designated as eligible, the Commission must, by order, revoke the order designating the business as eligible.

### **Statutory Instruments Act**

**(4)** The Statutory Instruments Act does not apply in respect of an order made under subsection (1).

### **Public broadcasters**

**28** The designation of a **provincial** public broadcaster as an eligible news business is subject to any other conditions specified in regulations made by the Governor in Council.

### **Public list**

**29 (1)** The Commission must maintain a list of eligible news businesses and publish that list on its website. An eligible news business is only included on the list if it gives its consent.

### **Statutory Instruments Act**

**(2)** The Statutory Instruments Act does not apply in respect of the list maintained under subsection (1).

### **Identification of news outlets**

**30** When initiating the bargaining process, an eligible news business or group of eligible news businesses must notify the operator of the digital news intermediary in question of the news outlets that are to be the subjects of the bargaining process.

### **Application to Commission**

**31 (1)** If the operator is of the opinion that a news outlet identified under section 30 by an eligible news business or group of eligible news businesses should not be a subject of the bargaining process, it may apply to the Commission for a determination of the issue.

### **Determination**

**(2)** A news outlet is to be a subject of the bargaining process if the Commission is of the opinion that the outlet is operated exclusively for the purpose of producing news content — including local, regional and national news content — consisting primarily of original news content that is

- (a) produced primarily for the Canadian news marketplace;
- (b) focused on matters of general interest and reports of current events, including coverage of democratic institutions and processes;
- (c) not focused on a particular topic such as industry-specific news, sports, recreation, arts, lifestyle or entertainment; and
- (d) not intended to promote the interests, or report on the activities, of an organization, an association or its members.

**(2.1)** Despite subsection (2), an Indigenous news outlet is to be a subject of the bargaining process if it

- (a) operates in Canada; and

(b) produces news content that includes matters of general interest, including coverage of matters relating to the rights of Indigenous peoples, including the right of self-government.

#### **Summary dismissal**

(3) If the Commission is of the opinion that an application under subsection (1) is frivolous, vexatious or not made in good faith, it may dismiss the application summarily and the news outlet that is otherwise the subject of the application is a subject of the bargaining process.

#### Agreements

#### **Agreement with group**

**32 (1)** If a group of eligible news businesses enters into an agreement with an operator as a result of bargaining or mediation sessions under the bargaining process, the group must file a copy of the agreement with the Commission within 15 days after the day on which it is entered into.

#### **For greater certainty**

(2) For greater certainty, nothing in this Act prevents the agreement from applying to eligible news businesses that join the group after the agreement is entered into if the agreement provides for it.

#### Final Offer Arbitration

#### **Roster of qualified arbitrators**

**33 (1)** The Commission must publish qualifications for arbitrators on its website and must maintain a roster of arbitrators who meet those qualifications.

(1.1) The Commission must ensure that the roster includes Indigenous persons.

#### **Proposals**

(2) Parties that are engaging in bargaining or mediation sessions may propose candidates for the roster.

#### **Arbitration panel**

**34 (1)** A final offer arbitration must be conducted by a panel that is composed of three arbitrators who

- (a) are selected by the parties from the roster; or
- (b) are appointed by the Commission from the roster, if the parties do not select the arbitrators within a period that the Commission considers reasonable.

#### **Appointment by Commission**

(2) The Commission must take the preferences of the parties into account if it appoints the arbitrators to the panel.

#### **Status**

(3) An arbitration panel is not a federal board, commission or other tribunal for the purposes of the Federal Courts Act.

#### **Conflicts of interest**

**35 (1)** If the Commission is of the opinion that an arbitrator selected by the parties has a conflict of interest, that arbitrator is ineligible to be a panel member and a replacement must be

- (a) selected by the parties from the roster; or
- (b) appointed by the Commission from the roster, if the parties do not select the replacement within a period that the Commission considers reasonable.

### **Appointment by Commission**

(2) The Commission must not appoint an arbitrator who has a conflict of interest.

### **Commission assistance**

36 The Commission may, at the request of an arbitration panel, provide administrative and technical assistance to the panel and may, on any terms that the Commission considers necessary, disclose to the panel any confidential information in the Commission's possession that, in the Commission's opinion, is necessary for a balanced and informed decision-making process, on the condition that the Commission ensures that the arbitration panel or each individual arbitrator that presides over the final offer arbitration, do not further disclose any such confidential information and under any further terms that the Commission considers necessary.

### **Decision of arbitration panel**

37 The arbitration panel makes its decision by selecting the final offer made by one of the parties.

### **Factors**

38 An arbitration panel must take the following factors into account in making its decision:

- (a) the value added, monetary and otherwise, to the news content in question by each party, as assessed in terms of their investments, expenditures and other actions in relation to that content; and
- (b) the benefits, monetary and otherwise, that each party receives from the content being made available by the digital news intermediary in question.

(c) the bargaining power imbalance between the news business and the operator of the digital news intermediary in question.

### **Dismissal of offers**

39 (1) An arbitration panel must dismiss any offer that, in its opinion,

- (a) allows a party to exercise undue influence over the amount of compensation to be paid or received;
- (b) is not in the public interest because the offer would be highly likely to result in serious detriment to the provision of news content to persons in Canada; or
- (c) is inconsistent with the purposes of enhancing fairness in the Canadian digital news marketplace and contributing to its sustainability.

(2) If the arbitration panel dismisses, in accordance with subsection (1), the final offer made by one of the parties, it must accept the final offer made by the other party.

(3) If the arbitration panel dismisses, in accordance with subsection (1), the final offer made by each of the parties, it must provide written reasons to the parties and give them an opportunity to make a new offer.

### **Other submissions**

**40** An arbitration panel may, in making its decision, seek oral or written submissions from the Commission and from the Commissioner of Competition appointed under subsection 7(1) of the Competition Act.

#### **Decision final**

**41** An arbitration panel's decision is final.

#### **Decision deemed to be agreement**

**42** An arbitration panel's decision is deemed, for the purposes of its enforceability, to be an agreement entered into by the parties.

#### **Reasons**

**43** An arbitration panel must provide written reasons for its decision to the parties and the Commission.

#### **Costs**

**44** The arbitration panel may apportion the costs related to final offer arbitration between the parties, if the parties cannot agree, within a period that the panel considers reasonable, on how to share the costs. In doing so, the panel must take into account each party's ability to pay, their conduct during the arbitration and any other factor that it considers appropriate.

Civil Remedies

#### **Right of recovery**

**45** For greater certainty, an eligible news business or group of eligible news businesses may, during the period specified in a covered agreement, collect payments due under it and, if they are not made, recover the payments in a court of competent jurisdiction.

#### **Compliance order**

**46** For greater certainty, if a provision of a covered agreement is not complied with, a party to the agreement may, in addition to any other remedy available, apply to a court of competent jurisdiction for an order directing compliance with the provision.

Competition Act

#### **Covered agreements**

**47** Sections 45 and 90.1 of the Competition Act do not apply in respect of

- (a) any activity, including the making of payments or the exchange of information, that is carried out in accordance with a covered agreement between an operator and a group of eligible news businesses;
- (b) any provision of the covered agreement that is related to that activity; or
- (c) any bargaining or mediation session or any final offer arbitration under the bargaining process set out in sections 18 to 44 to which an operator and a group of eligible news businesses are parties.

#### **Other agreements**

**48 (1)** Sections 45 and 90.1 of the Competition Act also do not apply in respect of

- (a) any bargaining activity between an operator and a group of eligible news businesses that is conducted with a view to entering into an agreement;
- (b) any activity, including the making of payments or the exchange of information, that is carried out in accordance with an agreement; or
- (c) any provision of an agreement that is related to an activity referred to in paragraph (b).

### **Definition of agreement**

**(2)** In this section, **agreement** means an agreement that

- (a) is not a covered agreement;
- (b) is entered into by an operator and a group of eligible news businesses the members of which operate news outlets that produce news content primarily for the Canadian news marketplace; and
- (c) is in relation to the making available of that content by a digital news intermediary operated by the operator.

Code of Conduct

### **Establishment of code**

**49 (1)** The Commission must, by regulation, establish a code of conduct respecting bargaining in relation to news content — including any bargaining and mediation sessions during the bargaining process set out in sections 18 to 44 — between

- (a) operators of digital news intermediaries that make available news content that is produced primarily for the Canadian news marketplace by news outlets; and
- (b) eligible news businesses or groups of eligible news businesses.

### **Purpose of code**

**(2)** The purpose of the code is to support fairness and transparency in bargaining in relation to news content.

### **Mandatory contents**

**(3)** The code of conduct must contain provisions

- (a) respecting the requirement to bargain in good faith that is set out in section 22;
- (b) requiring parties to bargain in good faith even if they are bargaining outside of the bargaining process set out in sections 18 to 44;
- (c) respecting the requirement to bargain in good faith that is referred to in paragraph (b); and
- (d) respecting the information that the parties require to make informed business decisions.

### **Discretionary contents**

**(4)** The code of conduct may, among other things,

- (a) prohibit the use of specified provisions in agreements, including agreements that are entered into as a result of bargaining or mediation sessions under the bargaining process set out in sections 18 to 44; and
- (b) set out examples of unfair behaviour that could arise during bargaining.

### **Compliance order**

**50 (1)** If an operator, eligible news business or group of eligible news businesses fails to comply with the code of conduct, the Commission may, by order, require the operator, business or group to take any measure the Commission considers necessary to remedy the non-compliance.

### **Statutory Instruments Act**

**(2)** The Statutory Instruments Act does not apply in respect of an order made under subsection (1).

Discrimination, Preference and Disadvantage

### **Prohibition**

**51** In the course of making available news content that is produced primarily for the Canadian news marketplace by news outlets operated by eligible news businesses, the operator of a digital news intermediary must not act in any way that

- (a) unjustly discriminates an eligible news business;
- (b) gives undue or unreasonable preference to any individual or entity, including itself; or
- (c) subjects an eligible news business to an undue or unreasonable disadvantage.

**(2)** In determining whether an operator has contravened section 51, the Commission may take into account any factor it considers appropriate, but it must take into account whether the conduct in question is

- (a) in the normal course of business for the operator;
- (b) retaliatory in nature; or
- (c) consistent with the purposes of this Act.

**(3)** If the Commission is of the opinion that a complaint under subsection (1) is frivolous, vexatious or not made in good faith, it may dismiss the complaint summarily.

### **Complaint**

**52** An eligible news business or group of eligible news businesses may make a complaint to the Commission if the business or group has reasonable grounds to believe that an operator has, in relation to the business or a member of the group, contravened section 51.

Provision of Information

### **Duty to provide information**

**53** An operator or news business must, at the request of the Commission and within the time and in the manner that it specifies, provide the Commission with any information that it requires for the purpose of exercising its powers or performing its duties and functions under this Act.

53.1 If the Canadian Broadcasting Corporation is party to an agreement with an operator in relation to the making available of news content by a digital news intermediary, the Corporation must provide the Commission, within the time and in the manner that it specifies, with an annual report that includes the following information:

(a) the amount of compensation received by the Corporation under agreements it has entered into with operators in relation to the making available of news content by digital news intermediaries;

(b) information relating to the Corporation's use of that compensation; and

(c) information relating to the contribution of those agreements to the sustainability of the Canadian digital news marketplace, including any such information that the Commission specifies must be included in the report.

#### **Minister and Chief Statistician**

54 (1) The Commission must, on request, provide the Minister or the Chief Statistician of Canada with any information submitted to the Commission under this Act.

#### **Restriction**

(2) Information that is provided to the Minister in accordance with subsection (1) is only to be used by the Minister for the purpose of permitting the Minister and the Governor in Council to exercise their powers and perform their duties and functions under this Act.

#### **Confidential information**

55 (1) For the purposes of this section, an individual or entity that submits any of the following information to the Commission may designate it as confidential:

- (a) information that is a trade secret;
- (b) financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the individual or entity that submitted it; or
- (c) information the disclosure of which could reasonably be expected to
  - (i) result in material financial loss or gain to any individual or entity,
  - (ii) prejudice the competitive position of any individual or entity, or
  - (iii) affect contractual or other negotiations of any individual or entity.

#### **Prohibition — disclosure**

(2) Subject to subsections (4), (5), (7) and (8), if an individual or entity designates information as confidential and the designation is not withdrawn by them, it is prohibited for an individual described in subsection (3) to knowingly disclose the information, or knowingly allow it to be disclosed, to any individual or entity in any manner that is calculated or likely to make it available for the use of any individual or entity that may benefit from the information or use it to the detriment of any other individual or entity to whose business or affairs the information relates.

#### **Application to individuals**

(3) Subsection (2) applies to any individual referred to in any of the following paragraphs who comes into possession of designated information while holding the office or employment described in that paragraph, whether or not the individual has ceased to hold that office or be so employed:

- (a) a member of, or individual employed by, the Commission;
- (b) in respect of information disclosed under paragraph (4)(b) or (5)(b), the Commissioner of Competition appointed under subsection 7(1) of the Competition Act or an individual whose duties involve the carrying out of that Act and who is referred to in section 25 of that Act; and
- (c) in respect of information provided under subsection 54(1), the Minister, the Chief Statistician of Canada or an agent of or an individual employed in the federal public administration.

#### **Disclosure of information submitted in proceedings**

(4) If designated information is submitted in the course of proceedings before the Commission, the Commission may

- (a) disclose it or require its disclosure if it determines, after considering any representations from interested individuals and entities, that the disclosure is in the public interest; and
- (b) disclose it or require its disclosure to the Commissioner of Competition on the Commissioner's request if the Commission determines that the information is relevant to competition issues being considered in the proceedings.

#### **Disclosure of other information**

(5) If designated information is submitted to the Commission otherwise than in the course of proceedings before it, the Commission may

- (a) disclose it or require its disclosure if, after considering any representations from interested individuals and entities, it determines that the information is relevant to the determination of a matter before it and determines that the disclosure is in the public interest; and
- (b) disclose it or require its disclosure to the Commissioner of Competition on the Commissioner's request if it determines that the information is relevant to competition issues being raised in the matter before it.

#### **Use of information disclosed to Commissioner of Competition**

(6) It is prohibited for the Commissioner of Competition and any individual whose duties involve the administration and enforcement of the Competition Act and who is referred to in section 25 of that Act to use information that is disclosed

- (a) under paragraph (4)(b) other than to facilitate the Commissioner's participation in proceedings referred to in subsection (4); or
- (b) under paragraph (5)(b) other than to facilitate the Commissioner's participation in a matter referred to in subsection (5).

#### **Disclosure**

(7) The Commission may disclose designated information obtained by it if requested to do so under subsection 54(1).

#### **Information inadmissible**

(8) Designated information that is not disclosed or required to be disclosed under this section is not admissible in evidence in any judicial proceedings except proceedings for failure to submit information

required to be submitted under this Act or for forgery, perjury or false declaration in relation to the submission of the information.

#### **Offence — disclosure**

**56 (1)** Every individual who contravenes subsection 55(2) is guilty of an offence and is liable on summary conviction,

- (a) for a first offence, to a fine of not more than \$5,000; and
- (b) for a second or subsequent offence, to a fine of not more than \$10,000.

#### **Offence — use**

**(2)** Every individual who contravenes subsection 55(6) is guilty of an offence and is liable on summary conviction,

- (a) for a first offence, to a fine of not more than \$5,000; and
- (b) for a second or subsequent offence, to a fine of not more than \$10,000.

#### **Defence**

**(3)** An individual is not to be found guilty of an offence under subsection (2) if they establish that they exercised due diligence to prevent the commission of the offence.

Administration and Enforcement

Production Orders

#### **Designated persons**

**57** The Commission may designate persons or classes of persons for the purposes of section 58.

#### **Power to order production**

**58 (1)** A person designated under section 57 may, for a purpose related to verifying compliance or preventing non-compliance with this Act, by order require an operator or an eligible news business to produce, within the time and in the manner specified in the order, for examination or copying, any record, report, electronic data or other document that the designated person has reasonable grounds to believe contains information that is relevant to that purpose.

#### **Copies and data**

**(2)** The designated person may

- (a) make copies of or take extracts from the record, report, electronic data or other document produced under subsection (1);
- (b) reproduce any document from the data, or cause it to be reproduced, in the form of a printout or other output; and
- (c) prepare a document, or cause one to be prepared, based on the data.

#### **Assistance**

**(3)** The operator or eligible news business and every director, officer, employee and agent or mandatory of the operator or business must

- (a) give all assistance that is reasonably required to enable the designated person to exercise their powers and perform their duties and functions under this section, including by providing explanations respecting its organization, information technology systems, data handling and business activities; and
- (b) provide any documents or information, and access to any data, that are reasonably required for that purpose.

#### **Confidential information**

**(4)** The rules in section 55 respecting the designation and disclosure of information apply in respect of any information contained in a record, report, electronic data or other document that is provided to the designated person as if that person were a member of the Commission exercising the powers of the Commission.

#### **Statutory Instruments Act**

**(5)** The Statutory Instruments Act does not apply in respect of an order made under subsection (1).

News Businesses

#### **Contravention — eligible news business**

**59 (1)** If an eligible news business contravenes a provision of this Act, a provision of the regulations or an order made under this Act, the Commission may, by order,

- (a) impose any conditions on the business that are designed to further its compliance with this Act, including conditions respecting its participation in the bargaining process set out in sections 18 to 44;
- (b) suspend, for the period the Commission specifies, the order designating the business as eligible; or
- (c) revoke the order designating the business as eligible.

#### **Contravention — group of eligible news businesses**

**(2)** If a group of eligible news businesses contravenes a provision of this Act, a provision of the regulations or an order made under this Act, the Commission may, by order, impose any conditions designed to further the compliance of the group and its members with this Act, including restrictions on its participation in the bargaining process set out in sections 18 to 44.

#### **Contravention — directors, officers, etc.**

**(3)** For the purposes of subsections (1) and (2), the contravention of a provision of this Act, a provision of the regulations or an order made under this Act by an eligible news business or group of eligible news businesses includes such a contravention by its director, officer, employee or agent or mandatary.

#### **Statutory Instruments Act**

**(4)** The Statutory Instruments Act does not apply to an order made under subsection (1) or (2).

Administrative Monetary Penalties

#### **Violation — operators, directors, etc.**

**60 (1)** Subject to any regulations made under paragraph 76(a), an operator or a director, officer, employee or agent or mandatary of an operator commits a violation if they

- (a) contravene a provision of this Act, a provision of the regulations, an order made under this Act or an undertaking that they entered into under section 65; or
- (b) make a misrepresentation of a material fact or an intentional omission to state a material fact to a person designated under section 57 or paragraph 63(a).

#### **Violation — other individuals and entities**

(2) An individual or entity commits a violation if they contravene subsection 7(2).

#### **Continued violation**

(3) A violation that is continued on more than one day constitutes a separate violation in respect of each day on which it is continued.

#### **Maximum amount of penalty**

**61 (1)** Subject to any regulations made under paragraph 76(b), an individual or entity that commits a violation is liable to an administrative monetary penalty

- (a) in the case of an individual, of not more than \$25,000 for a first violation and of not more than \$50,000 for each subsequent violation; or
- (b) in the case of an entity, of not more than \$10 million for a first violation and of not more than \$15 million for each subsequent violation.

#### **Criteria for penalty**

(2) The amount of the penalty is to be determined by taking into account

- (a) the nature and scope of the violation;
- (b) the history of compliance with this Act, the regulations and orders made under this Act by the individual or entity that committed the violation;
- (c) the history of the individual or entity with respect to any previous undertaking entered into under section 65;
- (d) any benefit that the individual or entity obtained from the commission of the violation;
- (e) the ability of the individual or entity to pay the penalty;
- (f) any factors established by regulations made under paragraph 76(c);
- (g) the purpose of the penalty; and
- (h) any other relevant factor.

#### **Purpose of penalty**

(3) The purpose of the penalty is to promote compliance with this Act and not to punish.

#### **Procedures**

**62 (1)** Despite subsection 64(1), the Commission may impose a penalty in a decision made in the course of a proceeding before it under this Act, including a proceeding in respect of a complaint made under section 52, in which it finds that a violation referred to in section 60 has been committed by an individual or entity other than the individual or entity that entered into an undertaking under section 65 in connection with the same act or omission giving rise to the violation.

## **For greater certainty**

**(2)** For greater certainty, the Commission is not to impose a penalty under subsection (1) on an individual or entity that has not been given the opportunity to be heard.

## **Designation**

**63** The Commission may

- (a) designate persons or classes of persons who are authorized to issue notices of violation or to accept an undertaking under section 65; and
- (b) establish, in respect of each violation, a short-form description to be used in notices of violation.

## **Notice of violation**

**64 (1)** A person who is authorized to issue notices of violation may, if they believe on reasonable grounds that an individual or entity has committed a violation, other than a violation in respect of a contravention of section 51, issue a notice of violation and cause it to be served on that individual or entity.

## **Contents**

**(2)** The notice of violation must set out

- (a) the name of the individual or entity that is believed to have committed the violation;
- (b) the act or omission giving rise to the violation, as well as a reference to the provision that is at issue;
- (c) the penalty that the individual or entity is liable to pay, as well as the time and manner in which the individual or entity may pay the penalty;
- (d) a statement informing the individual or entity that they may pay the penalty or make representations to the Commission with respect to the violation and the penalty and informing them of the time and manner for making representations; and
- (e) a statement informing the individual or entity that, if they do not pay the penalty or make representations in accordance with the notice, they will be deemed to have committed the violation and the penalty may be imposed.

## **Undertaking**

**65 (1)** An individual or entity may enter into an undertaking at any time. The undertaking is valid on its acceptance by the Commission or the person designated to accept an undertaking.

## **Requirements**

**(2)** An undertaking

- (a) must set out every act or omission that is covered by the undertaking;
- (b) must set out every provision that is at issue;
- (c) may contain any conditions that the Commission or the person designated to accept the undertaking considers appropriate; and
- (d) may include a requirement to pay a specified amount.

### **No service of notice of violation**

**(3)** If an individual or entity enters into an undertaking, a notice of violation must not be served on them in connection with any act or omission referred to in the undertaking.

### **Undertaking after service of notice of violation**

**(4)** If an individual or entity enters into an undertaking after a notice of violation is served on them, the proceeding that is commenced by the notice is ended in respect of that individual or entity in connection with any act or omission referred to in the undertaking.

### **Payment of penalty**

**66 (1)** If an individual or entity that is served with a notice of violation pays the penalty set out in the notice, they are deemed to have committed the violation and the proceedings in respect of it are ended.

### **Representations to Commission and decision**

**(2)** If an individual or entity that is served with a notice of violation makes representations in accordance with the notice, the Commission must decide, on a balance of probabilities, after considering any other representations that it considers appropriate, whether the individual or entity committed the violation. If the Commission decides that the individual or entity committed the violation, it may

- (a)** impose the penalty set out in the notice, a lesser penalty or no penalty; and
- (b)** suspend payment of the penalty subject to any conditions that the Commission considers necessary to ensure compliance with this Act.

### **Penalty**

**(3)** If an individual or entity that is served with a notice of violation neither pays the penalty nor makes representations in accordance with the notice, the individual or entity is deemed to have committed the violation and the Commission may impose the penalty.

### **Copy of decision**

**(4)** The Commission must cause a copy of any decision made under subsection (2) or (3) to be issued and served on the individual or entity.

### **Evidence**

**67** In a proceeding in respect of a violation, a notice purporting to be served under subsection 64(1) or a copy of a decision purporting to be served under subsection 66(4) is admissible in evidence without proof of the signature or official character of the person appearing to have signed it.

### **Burden of proof**

**68** In a proceeding in respect of a violation in respect of a contravention of section 51, the burden of establishing that any discrimination is not unjust or that any preference or disadvantage is not undue or unreasonable is on the individual or entity that is believed to have contravened that section.

### **Defence**

**69 (1)** An individual or entity is not to be found liable for a violation, other than a violation in respect of a contravention of section 22, if they establish that they exercised due diligence to prevent its commission.

### **Common law principles**

**(2)** Every rule and principle of the common law that makes any circumstance a justification or excuse in relation to a charge for an offence applies in respect of a violation to the extent that it is not inconsistent with this Act.

**Directors, officers, etc.**

**70** A director, officer or agent or mandatary of an entity that commits a violation is liable for the violation if they directed, authorized, assented to, acquiesced in or participated in the commission of the violation, whether or not the entity is proceeded against.

**Vicarious liability**

**71** An individual or entity is liable for a violation that is committed by their employee acting within the scope of their employment or their agent or mandatary acting within the scope of their authority, whether or not the employee or agent or mandatary is identified or proceeded against.

**Limitation or prescription period**

**72 (1)** Proceedings in respect of a violation may be instituted within, but not after, three years after the day on which the subject matter of the proceedings became known to the Commission.

**Certificate**

**(2)** A document that appears to have been issued by the secretary to the Commission, certifying the day on which the subject matter of any proceedings became known to the Commission, is admissible in evidence without proof of the signature or official character of the person who appears to have signed the document and is, in the absence of evidence to the contrary, proof of the matter asserted in it.

**Information made public**

**73** The Commission must make public

- (a) the name of an individual or entity that enters into an undertaking under section 65, the nature of the undertaking, including the acts or omissions and provisions at issue, the conditions included in the undertaking and the amount payable under it, if any; and
- (b) the name of an individual or entity that is deemed, or is found by the Commission, to have committed a violation, the acts or omissions and provisions at issue and the amount of the penalty imposed, if any.

**Receiver General**

**74** A penalty paid or recovered in relation to a violation is payable to the Receiver General.

**Debt due to Her Majesty**

**75 (1)** The following amounts are debts due to Her Majesty in right of Canada that may be recovered in any court of competent jurisdiction:

- (a) the amount of the penalty imposed by the Commission in a decision made in the course of a proceeding before it under this Act in which it finds that a violation referred to in section 60 has been committed;
- (b) the amount payable under an undertaking entered into under section 65, beginning on the day specified in the undertaking or, if no day is specified, beginning on the day on which the undertaking is accepted;

- (c) the amount of the penalty set out in a notice of violation, beginning on the day on which it is required to be paid in accordance with the notice, unless representations are made in accordance with the notice;
- (d) if representations are made, either the amount of the penalty that is imposed by the Commission, beginning on the day specified by the Commission or, if no day is specified, beginning on the day on which the decision is made; and
- (e) the amount of any reasonable expenses incurred in attempting to recover an amount referred to in any of paragraphs (a) to (d).

#### **Limitation or prescription period**

(2) Proceedings to recover a debt may be instituted within, but not after, three years after the day on which the debt becomes payable.

#### **Certificate of default**

(3) The Commission may issue a certificate for the unpaid amount of any debt referred to in subsection (1).

#### **Effect of registration**

(4) Registration of a certificate in any court of competent jurisdiction has the same effect as a judgment of that court for a debt of the amount set out in the certificate and all related registration costs.

#### **Regulations**

76 The Governor in Council may make regulations

- (a) providing for exceptions to paragraph 60(1)(a) or (b);
- (b) increasing the penalty amounts set out in subsection 61(1);
- (c) for the purpose of paragraph 61(2)(f), establishing other factors to be considered in determining the amount of the penalty;
- (d) respecting undertakings referred to in section 65;
- (e) respecting the service of documents required or authorized to be served under sections 60 to 75, including the manner and proof of service and the circumstances under which documents are to be considered to be served; and
- (f) generally, for carrying out the purposes and provisions of sections 60 to 75.

#### **Other Provisions**

#### **Judicial powers**

77 In a proceeding under this Act, the Commission has the powers of a superior court with respect to the attendance and examination of witnesses and the production and examination of documents or things.

#### **Sections 126 and 127 of Criminal Code**

78 Sections 126 and 127 of the Criminal Code do not apply in respect of any contravention of a provision of this Act, a provision of the regulations or an order made under this Act.

## Financial Provisions

### **Fees for services**

**79 (1)** The Commission may make regulations respecting fees to be paid for the provision of services — including dealing with a complaint or providing regulatory processes — under this Act, including regulations

- (a) fixing those fees or setting out the manner of calculating them;
- (b) establishing classes of operators and of news businesses and groups of news businesses for the purposes of paragraph (a);
- (c) respecting the payment of those fees, including the time and manner of payment; and
- (d) respecting the interest payable in respect of overdue fees.

### **Commission assistance**

**(2)** For greater certainty, subsection (1) permits the making of regulations respecting the recovery of the Commission's costs for providing assistance to an arbitration panel under section 36.

### **Amount not to exceed cost**

**(3)** Fees that are payable under regulations made under subsection (1) must not in the aggregate exceed the costs that the Commission determines to be attributable to providing the service.

### **Criteria**

**(4)** Regulations made under subsection (1) may provide for fees to be calculated by reference to any criteria that the Commission considers appropriate, including

- (a) the revenues of the operator, the news business or the group of news businesses; or
- (b) the market served by the operator's digital news intermediary or by the news outlets operated by the news business or by the members of the group of news businesses.

### **Costs apportioned by Commission**

**80 (1)** The Commission may, by order, apportion the costs related to the bargaining process, other than those related to final offer arbitration, including fees payable under regulations made under subsection 79(1), between the parties, if the parties cannot agree, within a period that the Commission considers reasonable, on how to share the costs.

### **Factors**

**(2)** In making an order, the Commission must take into account each party's ability to pay, their conduct during bargaining and mediation sessions and any other factor that it considers appropriate.

### **Statutory Instruments Act**

**(3)** For greater certainty, the Statutory Instruments Act does not apply in respect of an order made under subsection (1).

### **Cost recovery**

**81 (1)** With the approval of the Treasury Board, the Commission may make regulations respecting the charges payable by operators in respect of the recovery, in whole or in part, of costs that are incurred in relation to the administration of this Act, including regulations

- (a) setting out the manner of calculating those charges;
- (b) providing for the establishment of classes of operators for the purposes of paragraph (a);
- (c) providing for the payment of any charge payable, including the time and manner of payment; and
- (d) respecting the interest payable in respect of any overdue charge.

#### **Amount not to exceed cost**

**(2)** Charges payable under regulations made under subsection (1) must not exceed the costs that the Commission determines to be attributable to exercising its powers and carrying out its duties and functions under this Act and that are not recovered under regulations made under subsection 79(1).

#### **Criteria**

**(3)** Regulations made under subsection (1) may provide for charges to be calculated by reference to any criteria that the Commission considers appropriate, including

- (a) the revenues of the operator; or
- (b) the market served by the operator's digital news intermediary.

#### **Debt due to Her Majesty**

**82 (1)** Fees and charges payable under regulations made under subsections 79(1) and 81(1), and any interest on them, constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction.

#### **Deduction, set-off and compensation**

**(2)** Debts due to Her Majesty in right of Canada under regulations made under subsections 79(1) and 81(1) maybe recovered at any time by way of deduction from, set-off against or compensation against any sum of money that may be due or payable by Her Majesty in right of Canada to the individual or entity responsible for the debt.

#### **Spending**

**83** Subject to any conditions imposed by the Treasury Board, the Commission may spend revenues that are received under regulations made under subsections 79(1) and 81(1) for the purposes of exercising its powers and carrying out its duties and functions under this Act. If the Commission spends the revenues, it must do so in the fiscal year in which they are received or, unless an appropriation Act provides otherwise, in the next fiscal year.

#### **Regulations**

#### **Regulations — Governor in Council**

**84** The Governor in Council may make regulations

- (a) respecting the factors set out in section 6;
- (b) respecting the time at which or the period within which an operator must notify the Commission under subsection 7(1);
- (c) respecting how the Commission is to interpret subparagraphs 11(1)(a)(i) to (vi);
- (d) setting out conditions for the purposes of paragraph 11(1)(b), **and**;

•(e) setting out conditions in respect of the Canadian Broadcasting Corporation for the purposes of section 28; and

•(e) setting out conditions in respect of a provincial public broadcaster for the purposes of section 28, if the provincial minister responsible for that broadcaster has made a request to the Minister.

### **Regulations — Commission**

**85** The Commission may make regulations

- (a) respecting requests for orders referred to in subsection 11(1);
- (b) respecting the bargaining process set out in sections 18 to 44;
- (c) respecting requests for designations referred to in subsection 27(1);
- (d) establishing the code of conduct referred to in section 49;
- (e) respecting complaints referred to in section 52;
- (f) respecting the manner in which groups of eligible news businesses are to be structured and the manner in which they are to exercise their rights or privileges and carry out their obligations under this Act;
- (g) respecting the provision of information by groups of eligible news businesses to the Commission respecting their structure;
- (h) respecting the exercise by any person appointed under section 8 of the Canadian Radio-television and Telecommunications Commission Act of any of the powers — other than the power to make regulations — or the carrying out of any of the duties or functions, of the Commission under this Act; and
- (i) respecting the Commission's practices and procedures in relation to this Act.

Independent Review

### **Annual report — independent auditor**

**86 (1)** The Commission must cause an independent auditor to prepare an annual auditor's report in respect of the impact of this Act on the Canadian digital news marketplace.

### **Contents**

**(2)** The report must set out an analysis of the impact of the agreements entered into under this Act on the Canadian digital news marketplace and include the following:

- (a) information relating to the total commercial value of the agreements entered into under this Act;
- (b) information relating to the distribution of the commercial value of those agreements among eligible news businesses, including relative to the expenditures of those businesses on their newsrooms;
- (c) information relating to the effect of the agreements on those expenditures; and

(c.1) if the Canadian Broadcasting Corporation has provided an annual report under section 53.1 in the 12 months preceding the preparation of the auditor's report, information related to that annual report; and

- (d) any other element that, in the opinion of the auditor, supports the transparency of the impact of this Act on the Canadian digital news marketplace.

(3) The Commission must publish the report on its website within 30 days after the day on which it receives it.

(4) The report must not contain any information that is likely to reveal information designated as confidential under subsection 55(1).

Review of Act

### Review

**87** Before the fifth anniversary of the day on which this section comes into force, the Minister must cause a review of this Act and its operation to be conducted and cause a report on the review to be laid before each House of Parliament.

Related Amendments

R.S., c. A-1

Access to Information Act

**88 Schedule II to the Access to Information Act is amended by adding, in alphabetical order, a reference to**

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**and a corresponding reference to “subsections 55(2) and 58(4)”.**

R.S., c. C-22

Canadian Radio-television and Telecommunications Commission Act

**89 Section 12 of the Canadian Radio-television and Telecommunications Commission Act is amended by adding the following after subsection (1):**

### Digital news

Start of inserted block

**(1.1) The Commission exercises the powers and performs the duties and functions conferred on it under the Online News Act.**

End of inserted block

**90 Section 13 of the Act is amended by adding the following after subsection (1):**

### Online News Act

Start of inserted block

**(1.1) The report must include the contents of the annual auditor's report prepared under section 86 of the Online News Act.**

End of inserted block

Broadcasting Act

**91 Section 4 of the Broadcasting Act is amended by adding the following after subsection (4):**

**Operators of digital news intermediaries**

Start of inserted block

**(5)** For greater certainty, this Act does not apply to the operator of a digital news intermediary in respect of which the Online News Act applies when the operator acts solely in that capacity. In this subsection, **digital news intermediary** and **operator** have the same meanings as in subsection 2(1) of that Act.

End of inserted block

1993, c. 38

Telecommunications Act

**92 The Telecommunications Act is amended by adding the following after section 4:**

**Digital news intermediaries excluded**

Start of inserted block

**4.1 (1)** This Act does not apply in respect of the making available of news content on or by a digital news intermediary in respect of which the Online News Act applies.

End of inserted block

**Definitions**

Start of inserted block

**(2)** In this section, **digital news intermediary** and **news content** have the same meanings as in subsection 2(1) of the Online News Act.

End of inserted block

**Interpretation**

Start of inserted block

**(3)** For the purposes of this section, news content is made available if

- **(a)** the news content, or any portion of it, is reproduced; or
- **(b)** access to the news content, or any portion of it, is facilitated by any means, including an index, aggregation or ranking of news content.

Coming into Force

**Order in council**

**93 (1)** Section 6 comes into force on a day to be fixed by order of the Governor in Council, but that day must not be before the day on which the first regulations made under paragraph 84(a) come into force.

**(2)** Sections 7, 8, 11 to 17, 20, 27 to 31, 53.1 and 59 and subsection 60(2) come into force on a day to be fixed by order of the Governor in Council, but that day must not be before the latest of

- (a)** the day fixed in accordance with subsection (1),

(b) the day on which the first regulations made under paragraph 84(b) come into force, and

(c) the day on which the first regulations made under paragraph 84(c) come into force.

(3) Sections 18, 19, 21, 22 and 32 to 44 come into force on a day to be fixed by order of the Governor in Council, but that day must not be before the day fixed in accordance with subsection (2).

(4) Sections 49 to 52 and 68 come into force on a day to be fixed by order of the Governor in Council, but that day must not be before the day fixed in accordance with subsection (3).

(5) Sections 79 to 83, 86, 87 and 90 come into force on a day or days to be fixed by order of the Governor in Council.