



April 23, 2025

Senate Rules Committee  
Oregon State Capitol  
900 E Court St. NE  
Salem, OR 97301

## Re: SB 686 – “Percentage of an online platform’s advertising revenue for digital journalism providers or donate to the Oregon Civic Information Consortium” (Oppose)

Dear Chair Jama and Members of the Senate Rules Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 686 in advance of the Senate Rules Committee hearing on April 23, 2025. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.<sup>1</sup> Therefore, proposed regulations on the interstate provision of digital services can have a significant impact on our members, including those that host or link to news content. CCIA values free speech and recognizes the important role of local journalism, however, SB 686 will not solve the challenges newsrooms are facing today and will instead have long-lasting, detrimental effects on Oregon’s news and digital services industries.

Language in this proposal gives covered “online platforms” two options: pay an unknown annual fee to qualifying publishers for “accessing the internet websites of the providers for an Oregon audience” or donate to the Oregon Civic Information Consortium. Because of that, this proposal is a tax on content being linked to on websites or search engines. This approach undermines local publications seeking to engage with audiences, foster online communities, and generate ad revenue at a grassroots level.

Additionally, SB 686 starts from the false premise that digital services somehow ‘siphon’ revenue away from news sites by linking to them and then sending them traffic.<sup>2</sup> While there is a serious crisis in local journalism, this crisis has many causes, as explained by a 2022 report from the U.S. Copyright Office.<sup>3</sup> Overall, there is little evidence that online services’ linking to news sites is the cause of this crisis. On the contrary, news sites depend on this linking, and the publications get much of their traffic from search engines and news aggregators.

### SB 686 is unconstitutional in numerous ways.

SB 686 interferes with interstate commerce regulations by imposing a tax on linking to out-of-state content by those who are in the state of Oregon. Despite these digital services

<sup>1</sup> For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

<sup>2</sup> <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB686>

<sup>3</sup> *Copyright Protections for Press Publishers: A Report of the Register of Copyrights* (June 2022), <https://www.copyright.gov/policy/publishersprotections/202206-Publishers-Protections-Study.pdf>, at 7-16.

operating nationwide, they would still be required to comply with this Oregon law, even though Congress has the power to regulate the trade between states rather than individual states.

The bill also violates the First Amendment by forcing websites to link to content that they do not wish to, and may violate their terms of service, through prohibiting “retaliating”. This results in a ‘must-carry, must-pay’ structure by forcing private actors to not just link to objectionable content but also pay for the obligation to do so, regardless of the price set by the arbitrators. Despite the Constitution protecting against compelled speech, this proposal actively works against this by penalizing digital services for choosing not to carry links to news sites — including those that might be harmful or contain disinformation. The First Amendment protects against the government either prohibiting speech — or forcing people or businesses to speak or otherwise display particular speech.

Finally, SB 686 conflicts with the Supremacy Clause because it requires payment for the display of headlines, ledes, facts, and other elements of copyrightable works that the Copyright Act provides are freely accessible. Because of this, the bill is also expressly preempted by Section 301(a) of the U.S. Copyright Act.

### **SB 686 will not contribute to sustainable, meaningful funding for community publications.**

SB 686 would also provide little help to local newspapers or reporters in Oregon. Much of the money would still go to large out-of-state publications or out-of-state publications owned by hedge funds or broadcasting conglomerates. Even with attempts at amended language, the emphasis on publications with a large number of reporters would favor organizations owned by conglomerates, which many local Oregon publications are.<sup>4</sup>

In various parts of the world, these kinds of link taxes have passed and created detrimental conditions for both community publications and internet users alike. These past efforts in Germany, Spain, and France, as well as ongoing efforts in Canada and Australia, have resulted in vast reductions in traffic being driven to news websites.<sup>5</sup> Indigenous and immigrant community publications, which rely on the internet to reach their audiences, have also been disproportionately affected, and vital investment in the news industry slowed dramatically or stopped altogether due to the uncertainty of these laws.<sup>6</sup>

### **SB 686 will harm the information-sharing ecosystem.**

Putting these serious legal and economic problems aside, SB 686 would start the internet down a slippery slope. The internet depends on linking, and once Oregon starts taxing links, there would be no end to Oregon (and other states) taxing all kinds of links to other industries

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<sup>4</sup> Allison Frost, *Pamplin Media Group sells sells [sic] two dozen Oregon papers, while EO Media Group downsizes*, OPB (June 4, 2023),

<https://www.opb.org/article/2024/06/04/think-out-loud-pamplin-media-group-sells-newspapers-eo-media-group-downsizes/>.

<sup>5</sup> Link Tax Failures: Global Efforts Continue to Uproot the Internet’s Foundation and Journalism Ecosystem (May 14, 2024),

<https://ccianet.org/library/link-tax-failures-global-efforts-continue-to-uproot-internets-foundation-and-journalism-ecosystem/>.

<sup>6</sup> Panel Urges Policymakers to Consider Past Lessons on Link Tax Policies (Sept. 17, 2024),

<https://ccianet.org/articles/panel-urges-policymakers-consider-past-lessons-link-tax-policies/>.



avored by legislatures. During a time when half of U.S. adults get news “at least sometimes” from social media, publications must be able to reach their current and potential audiences.<sup>7</sup>

Overall, SB 686 undermines the principle of open access to information on the internet, significantly underrates the value of linking for publications online, and stands to repeat similar unsuccessful attempts seen in various parts of the world. Even with the proposed amendments, this bill continues to threaten news access and the free flow of information online. The proposed amendments would give digital services two options: paying at least \$122 million annually or entering into a final arbitration process to determine the payment. A presumption in favor of an arbitrarily set payment, or use of arbitration where there is no consensus or applicable standards on the value exchange between publishers and digital intermediaries and whether there is any imbalance and what direction the imbalance goes, is very concerning. Such approaches give greater bargaining power in negotiations to large media companies, and smaller publications lack the negotiating ability to ensure terms are favorable compared to conglomerates, causing alternative outlets to agree to less favorable terms or be excluded entirely.

While we have concerns about this bill, we stand ready to work with you on truly supporting local journalism and free expression on the internet.

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We appreciate your consideration of our comments and stand ready to provide additional information as the Oregon Legislature considers proposals related to technology policy.

Sincerely,

Aodhan Downey  
State Policy Manager, West  
Computer & Communications Industry Association

<sup>7</sup> Pew Research Center, Social Media and News Fact Sheet (Sept. 17, 2023), <https://www.pewresearch.org/journalism/fact-sheet/social-media-and-news-fact-sheet/>.