

David Chavern Written Testimony:

House Subcommittee on Antitrust, Commercial and Administrative Law

March 12, 2021: Reviving Competition, Part 2: Saving the Free and Diverse Press

Chairman Cicilline, Ranking Member Buck, and members of the Subcommittee, thank you for inviting me to participate in today's hearing.

My name is David Chavern, and I am president and CEO of the News Media Alliance, a nonprofit trade association representing over 2,000 news organizations across the United States. Our members range from small, local newspapers to some of the largest news organizations in the world. The common characteristic among my membership is a capacity and commitment to produce high-quality, professional journalism that provides critical information to the public -- and sustains civic society.

Journalism in Society

The news media is, and has always been, an essential part of our democracy. We are, after all, the only business mentioned in the First Amendment. The core function of news media is to provide robust coverage of global, national, and local issues; from the COVID-19 pandemic to corruption by state officials. Since our nation's founding, journalists have played an integral role in strengthening our democracy by facilitating informed public discourse and holding power to account. Their ability to fulfill that role, however, is under threat -- and Congress' help is needed to combat that threat.

Though journalists' commitment to the public interest has remained the same, the way that readers consume news content -- and advertisers communicate to consumers -- has changed dramatically over the years. And as the world has moved online, so has our industry. News organizations have innovated to ensure that they provide high-quality journalism across a variety of media. Today, most of our members are primarily digital businesses, with online audiences that often dwarf other forms of delivery. In the digital media landscape, news publishers have proven incredibly adaptative and responsive even while their financial capacities have diminished.

These innovations allow news media to provide real-time updates on rapidly unfolding stories, such as catastrophic weather events and public health crises. By way of example, over the past year, the COVID-19 pandemic has underscored exactly how critical news organizations are to their communities and to the nation. News media have collected and packaged factual information about the spread of the virus and the

availability of vaccines, enhancing public safety, while also contributing personal stories about the hundreds of thousands of Americans who have lost their lives, ensuring they will not be forgotten. Local journalism has also acted as a clear antidote to the scourge of misinformation impacting communities across this country.

Journalism under Threat

But while news organizations continue to invest heavily in generating critically valuable reporting, a few dominant companies in the digital ecosystem ensure that little value is returned to publishers. The government cannot regulate the news business under the First Amendment, but there are now two major companies – Google and Facebook – that clearly do regulate us. Their algorithms determine when (and if) news is seen in search results and news feeds; they determine how news is presented to readers; they collect and control data about news audiences; and they control the systems and markets around digital advertising. These are challenges born of dominance and they impact news publishers of every type, no matter the form of ownership or ideological balance of their editorial pages.

In thinking about the future of news, we too often get pulled into debates about past business models. I am here to ask a question about the future: do we want professional local journalism to continue to be available to the broader public -- or don't we? Because if we maintain our current path, we will see the ultimate destruction of quality local news for most of the public, without any rational expectation of alternatives or new entrants. Hope is not a strategy, nor is it the basis for a sustainable market for news. We need solutions now.

Fortunately, we have achievable alternatives -- and these alternatives have precedents not only around the world but in other content categories. It should be very clear that we can and should create a new system for valuing digital journalism and return more of that value back to the creators of critical reporting.

The Power of Monopolies

Two dominant platforms -- Google and Facebook -- have unconstrained monopoly power over news media organizations. This committee's report expertly described how the platforms' monopoly power has broken the fundamental rules of the market. In a functioning market, online platforms and news organizations would provide valuable services to each other. The online platforms could contribute to the financially sustainable growth of news audiences, while news organizations could generate valuable and reliable content for the platforms and their users. But to-date, this bargain has mostly just worked one way. Google and Facebook benefit greatly from the high

engagement around news content and are also able to use that content to mitigate their own problems with misinformation. They then claim to pay for these benefits with low-value traffic. As too many people have learned over the years, clicks certainly do not support professional journalism. Among other things, the major platforms not only dominate access to audiences, they also control the digital advertising ecosystem.

This is not a fair or equitable trade and monopoly power distorts the ability of news organizations to effectively bargain. The platforms have extraordinary control over the distribution channels for news and as noted above, these platforms also control the advertising technology that news organizations rely upon to monetize their content. Because of this leverage, platforms are able to siphon off the vast majority of value from news, and publishers are left with few options to fight for themselves.

Congress Can Help

What do we need from Congress? First and foremost, local news publishers need the ability to collectively negotiate with the major platforms, as contemplated by the *Journalism Competition & Preservation Act* (JCPA). In the face of dominant intermediaries, it is unconscionable to prevent publishers from working together to fight for their own future. And the publishers most in need of collective action are local and community publishers who have no individual capacity to assert their value against the major platforms.

But experience from around the world has now taught us that this might not be enough. As we have seen in Europe and Australia, when pressed Google and Facebook will (i) refuse to negotiate, (ii) threaten (and in some cases actually) cut-off access to news content, and (iii) offer limited compensation to selected publishers in an attempt forestall legislation. We should all understand that these actions are, in and of themselves, fundamental expressions of market dominance.

We would suggest that Congress consider expansions of the JCPA that would include an oversight mechanism to ensure good faith negotiations by the platforms that would result in (i) equitable treatment for local and community publishers, and (ii) that any compensation model reward investments made by publishers in journalists and journalism.

Such a system could be structured in a variety of different ways, but fundamentally would be a limited and focused response to the challenge of ensuring a future for local journalism. All we are really asking for is a fair chance to fight for ourselves.

News is not *just* a form of “content.” Professional journalism is not only highly engaging and popular, it also sustains civic society in ways that other content forms simply do not. We’ve seen what happens when people don’t have access to the facts. A society without quality reporting is not one that we would recognize.

Today local journalism is under threat because the dominant digital platforms control access to audiences and refuse to fairly value what we provide. This committee has done tremendous work identifying the problem. We are hopeful that it will continue the work and support workable solutions.

I look forward to your questions.