

U.S. Senate Judiciary Committee

Chairman Dick Durbin

Ranking Member Chuck Grassley

Senator Mike Lee

Senator Amy Klobuchar

Sept. 7, 2022

Re: Journalism Competition and Preservation Act (JCPA)

Dear Chairman Durbin, Ranking Member Grassley, Senator Lee, and Senator Klobuchar:

We are the presidents of The NewsGuild-CWA locals and leaders of Guild bargaining units representing unionized journalists employed by the nation's largest local news conglomerates. We write with concern about the draft of the Journalism Competition & Preservation Act released on August 23, 2022 and call for improvements that ensure funds go toward journalism.¹

Our members – America's local journalists – are supposed to be the people whose work this bill supports. U.S. newsroom employment has fallen 26% since 2008, with newspaper newsroom employment falling 57%.² But we are concerned that JCPA attempts to level the economic playing field between news publishers and large tech platforms while failing to account for the corporate consolidation that has already taken place among a handful of massive media companies controlled by hedge funds, private equity and other Wall Street investors. JCPA is based on a similar policy enacted in Australia³ – The News Media and Digital Platforms Mandatory Bargaining Code – which our union peers in Australia's Media Entertainment and Arts Alliance have recently criticized for "its failure to specify that funds generated through the bargaining arrangements must be directed to production of journalistic content."⁴

We share similar concerns about JCPA. Revenue distributions under JCPA are not tied to new hiring of news workers. This bill does attempt to weight 65% of disbursements based on previous editorial spending, but only for arbitrations, not negotiated settlements; nor is there a requirement for any of the new funds disbursed under JCPA to be spent on journalism.⁵ There is no mechanism for the public to examine exactly how much our industry's Wall Street-controlled mega-chains will profit by getting excused from following the antitrust laws that have traditionally constrained their power for the public good. Finally, we have no confidence that these massively consolidated publishers will use whatever revenues they collect from JCPA to invest in

¹<https://www.kennedy.senate.gov/public/2022/8/kennedy-klobuchar-judiciary-committees-unveil-bill-text-to-ensure-independent-newspapers-conservative-publishers-get-fair-share-against-big-tech>

²<https://www.pewresearch.org/fact-tank/2021/07/13/u-s-newsroom-employment-has-fallen-26-since-2008/>

³<https://www.newsmediaalliance.org/australias-news-media-bargaining-code-is-a-major-success-that-the-u-s-can-emulate/>

⁴<https://www.poynter.org/business-work/2022/australias-news-media-bargaining-code-pries-140-million-from-google-and-facebook/>

⁵Aug. 23, 2022 version of JCPA (see Footnote 1), Sec. 4(d)(5)(E)(ii).

journalists rather than more mergers, stock buybacks, overpaid executives and union-busting lawyers – because that’s how these companies spend the revenues that they already extract from our members’ journalism.

Supporters of JCPA contend that Google and Facebook’s status-quo dominance of the digital ad markets “benefits vulture capitalists feeding on vulnerable news properties” and that “the JCPA will instead enable those news properties to survive” by giving publishers an antitrust exemption to collectively bargain for better ad rates.⁶ Yet a small handful of mega-chains – Gannett, Lee Enterprises, and Alden Global Capital’s MediaNews Group and Tribune Publishing – already control one-third of all U.S. daily newspapers; only 10 of the nation’s 100 largest dailies remain independently held.⁷ Americans are increasingly aware of the detrimental impact that budget-slashing financial firms such as hedge funds have had on newspapers; “60 Minutes” recently told the story of Alden Global Capital’s destruction of trusted local news outlets.⁸ These same Wall Street-owned mega-chains are among this bill’s loudest champions. The biggest, Gannett – fresh off its 2019 merger with GateHouse – has used its newly expanded reach to launch pro-JCPA ads and/or editorials in more than 150 newspapers in all its U.S. markets.⁹

We focus on Gannett in this letter to illustrate the risks JCPA poses if it doesn’t also apply basic scrutiny to the mega-publishers who, as the nation’s largest employers of local journalists, stand to be the greatest financial beneficiaries of this legislation. Gannett’s aggressive pivot to using its news properties for self-serving legislative advocacy comes at the same time the company’s executives have engaged in massive layoffs of journalists to help pay for their own debt-fueled mergers and stock buybacks.

Gannett fired roughly 400 workers last month and eliminated an additional 400 open positions,¹⁰ just six months after authorizing a \$100 million stock buyback plan – fueled by a \$50 million loan – as a perk to shareholders.¹¹ The company continues sacrificing journalists to service the \$1.34 billion in high-interest debt it accumulated to fuel its GateHouse merger,¹² which had already brought a wave of merger-related journalist layoffs in 2020.¹³ The median Gannett employee makes \$48,419, while CEO Michael E. Reed reported compensation valued at \$7,741,052 in 2021.¹⁴ Gannett has recently faced class-action lawsuits from its own employees alleging wage theft for unpaid overtime¹⁵ and from readers alleging the company continued billing them after

⁶<https://www.newsmediaalliance.org/myth-vs-fact-the-journalism-competition-and-preservation-act-jcpa/>

⁷<https://localnewsinitiative.northwestern.edu/research/state-of-local-news/report/>

⁸<https://www.cbsnews.com/news/local-news-financial-firms-60-minutes-video-2022-02-27/>

⁹<https://www.mediapost.com/publications/article/375895/gannett-ran-pro-jcpa-ads-in-all-its-markets.html>

¹⁰<https://www.poynter.org/business-work/2022/gannett-august-2022-layoffs-400-employees/>

¹¹<https://investors.gannett.com/news/news-details/2022/Gannett-Announces-Share-Repurchase-Program-and-Amendment-to-Credit-Agreement/default.aspx>

¹²<https://www.poynter.org/business-work/2021/newsguild-study-of-14-unionized-gannett-newsrooms-finds-gender-and-racial-pay-gaps/>

¹³<https://www.poynter.org/business-work/2020/heres-what-we-know-so-far-about-the-layoffs-at-gannett/>

¹⁴https://investors.gannett.com/files/doc_downloads/annual_meeting/2022/Gannett-2022-Preliminary-Proxy-Statement.pdf

¹⁵<https://newsguild.org/gannett-journalists-reject-company-denials-of-widespread-unpaid-overtime/>

they tried to cancel their subscriptions.¹⁶ Company pay data analyzed by The NewsGuild-CWA show that Gannett pays white men \$15,727 more on average per year than women of color and that racial and gender pay gaps are largest in Gannett newsrooms without union contracts.¹⁷

Given these management practices, you may not be surprised to learn that many of Gannett's employees have chosen to unionize to try to level the playing field with their powerful and exploitative employer. Yet Gannett's pleas to be allowed to collectively bargain with Google and Facebook are deeply hypocritical in light of the company's outrageous anti-collective-bargaining practices with its own employees. One NewsGuild-CWA local, Media Guild of the West – which represents newly unionized employees at Gannett newsrooms Arizona Republic, Austin American-Statesman and the Desert Sun (Palm Springs, Calif.) – has almost a dozen Unfair Labor Practice charges pending against Gannett in front of the National Labor Relations Board.¹⁸ Journalists at the Arizona Republic – after facing an intense, anti-union campaign from the company to prevent unionization in 2019¹⁹ – have spent nearly 1,000 days at the bargaining table in pursuit of their first contract.²⁰ Last week, after a supermajority of journalists at the Louisville, Ky., Courier Journal became the latest newsroom staffers to announce their intent to join The NewsGuild-CWA, Gannett management refused to recognize their employees' union²¹ and censored a Courier Journal op-ed mentioning the unionization effort.²² Apparently, Gannett wants readers to hear what its corporate bosses want from JCPA, but not what their own journalists think.

Whether massive news companies dislike it when their employees unionize is irrelevant; what matters is that they follow the laws that already exist and treat their workers and readers with respect. We welcome policy debate that pursues a sustainable environment for the local journalism that our democracy requires. But you must apply basic scrutiny to our employers while you seek to hold Big Tech accountable.

Yours,

The NewsGuild-CWA local presidents:

Matt Pearce, President, Media Guild of the West, TNG-CWA Local 39213

Derek Moore, President, Pacific Media Workers Guild, TNG-CWA Local 39521

Devi Shastri, President, Milwaukee Newspaper Guild, TNG-CWA Local 51

Heidi Groover, President, Pacific Northwest Newspaper Guild, TNG-CWA Local 37082

Jenna Watson, President, Indianapolis Newspaper Guild, TNG-CWA Local 34070

¹⁶<https://www.mediapost.com/publications/article/376874/consumer-sues-gannett-for-alleged-auto-sub-renewal.html>

¹⁷<https://newsguild.org/study-shows-gannett-underpays-women-and-journalists-of-color-as-much-as-2700/>

¹⁸NLRB case numbers 16-CA-283256, 16-CA-290065, 16-CA-295836, 16-CA-297702, 21-CA-283243, 21-CA-292591, 21-CA-296106, 21-CA-300783, 28-CA-283231, 28-CA-286428, 28-CA-291829.

¹⁹<https://www.phoenixnewtimes.com/news/arizona-republic-editor-unionizing-staff-crackpots-criminals-usa-today-11351624>

²⁰<https://twitter.com/azrepublicguild/status/1529296199752331264>

²¹<https://twitter.com/CJNewsGuild/status/1567593976735141888>

²²<https://twitter.com/GLCLCKy/status/1565684378411442179>

NewsGuild unit leaders:

Danielle Parhizkaran, Unit Chair, The Record Guild

Jack McLoone, Unit Chair, Atlantic DOT Guild

Peter D. Kramer, Unit Chair, Hudson Valley News Guild

Susanne Cervenka, Unit Chair, APP-MCJ Guild

Tracy Schuhmacher, Treasurer, Newspaper Guild of Rochester

H. Rose Schneider, President, Utica News Guild

Vicki Viotti, Unit Chair, Honolulu Star-Advertiser Guild

Veronica Serrano, Bargaining Committee Chair, Austin NewsGuild

Elizabeth Chou, Unit Chair, Southern California News Group Guild

Christopher Damien, Unit Chair, The Desert Sun NewsGuild