

## California Journalism Preservation Act (AB 886) CJPA Concerns with June 10 Amendments

The most recent amendments to the CJPA do not solve core problems with the bill. Updates to the bill language do not resolve key issues regarding conflicts with the Copyright Act, interstate commerce, or the First Amendment. Moreover, as shown below, the amendments do not even adequately address the problems they attempt to solve.

- **3273.81(a):** “Pay at least \_\_\_\_ dollars (\$\_\_\_\_) annually to compensate digital journalism providers for accessing the internet websites of the providers...”
  - **Concerns:** The addition of the flat fee alternative does not address the First Amendment, Commerce Clause, and conflict preemption caused by the bill’s “must-carry, must-pay” structure.
- **3273.81(a)(2):** “...employed by each qualifying publication for the primary purpose of producing content for a California audience.”
  - **Concerns:** Many local papers in California and the rest of the U.S. are [owned by hedge funds and media conglomerates](#). These groups would receive much of the funds generated by these mandates that focus on “local papers” even with their [past](#) and [recent](#) efforts of gutting and shutting down newsrooms.
- **3273.81(b):** “Participate in a final arbitration process...and fully pay the arbitration award...within 30 days of the award, or to each participating digital journalism provider within 90 days of the award...”
  - **Concerns:** In the arbitration between publication and digital services, smaller publications will lack the negotiating power to ensure terms that are favorable compared to larger publications with more resources and reach. This is likely to cause alternative outlets to agree to less favorable agreements or be excluded entirely.
- **3273.82(f):** “A final arbitration award...to a jointly participating group of digital journalism providers shall be distributed proportionally by the number of news journalists...”
  - **Concerns:** Similar to concerns with emphasizing content for a California audience, this amendment favors publications with a larger number of reporters. It would not ensure that small publications and their journalists see the majority of the money.
- **3273.84(i):** “...employed by each qualifying publication for the primary purpose of producing content for a California audience...”
  - **Concerns:** The emphasis on producing content for an audience in the state does not rectify concerns about much of the funds going to out-of-state and national media companies and hedge funds. Classification of a California audience doesn’t mean payments would only go to truly local papers.
- **3273.85(a):** “A covered platform shall not retaliate against a digital journalism provider for asserting its rights under this title by refusing to access content or changing the ranking, identification, modification, branding, or placement of the content of the digital journalism provider on the covered platform.”
  - **Concerns:** This provision continues to raise serious First Amendment concerns by forcing online services to link to objectionable content and pay for the obligation to do so, regardless of the price set by the arbitrators.