

Oregon SB 686, internet taxation related to state sponsored journalism

OPPOSITION TESTIMONY

April 9, 2025

Oregon Senate Rules Committee

Chair Jama, Vice-Chair Bonham, and members of the Senate Rules Committee.

I write today in strong opposition to SB 686, legislation that would require online platforms to either pay a link tax to certain media and news outlets or a fine collected and delivered to a newly created Oregon Civic Information Consortium (Consortium).

NetChoice is a trade association of leading internet businesses that promotes the value, convenience, and choice that internet business models provide to American consumers. Our mission is to make the internet safe for free enterprise and free expression.

Local journalism is of vital importance to the education of a healthy electorate, but a government subsidy to promote news outlets is not the right approach. For one, it creates a concerning connection between journalists and the government that those journalists should strive to hold accountable. A link tax would also incentivize the creation of click bait content—which misses the fundamental goal of legislation focused on high quality journalism. The bill also violates the First Amendment and the Internet Tax Freedom Act. Ultimately blaming social media for the challenges of local journalism is a misdiagnosis of the market conditions and does nothing to help media outlets modernize and thrive.

Link Taxes Have Failed in Other Countries

Oregon is not the first place where a link tax has been considered. Germany and Spain have failed records on this issue. In Canada their link tax had a disastrous rollout. Platforms recognized correctly that media companies benefit from free access to global audiences more than the platforms benefit from that output. While normal market forces allowed both to coexist in a healthy manner, government intervention forced certain platforms to simply remove news links. On Facebook, local news engagement

dropped 85%.¹ For national news that drop was a slightly smaller 64%. This policy has the exact opposite effect than what the bill sponsors likely intend.

Online platforms are a major driver of traffic for small and large news outlets alike, and many independent journalists use social media as a primary means to promote their own work through sites like Substack. While well intentioned, SB 686 misunderstands the longterm market realities that have caused some newsrooms to struggle while prioritizing legacy media over independent or idiosyncratic voices.

The bill also inadvertently promotes the creation of low quality content known as clickbait. A link tax necessarily shifts the entire economic incentive for newsrooms to click through rates. As such, any economic benefit a news outlet might gain from the link tax is placed back into clickbait, not the kind of longform or high quality local, investigative journalism it is fair to imagine the bill sponsors hope to prioritize. Of course, there is no legislative way to ensure the tax would be spent on high quality journalism, given that such a requirement would plainly violate the First Amendment freedom of the press. This speaks to the fundamental inefficiency of government intervention: intention seldom equals outcome.

The Bill Violates the First Amendment

Section 6 of the bill appears to be an attempt to circumvent some of the lived experience of other link taxes. It seeks to force platforms to carry content that platforms do not wish to pay for. The state of Oregon—nor any other state—can use a tax to pierce the editorial rights of online platforms. This First Amendment protected right, as affirmed in *NetChoice v. Moody*, is not up for debate. If the state wishes to meddle with market prices and attach a new price to a good, then the state must also accept that the new price may become too steep for the buyer. When the product is speech and the platform has editorial discretion, the state cannot likewise force the payment and carriage of said speech. Online platforms have a First Amendment right to associate and dissociate from speech.

There is also a major concern with Oregon training the independent news media to become dependent on funds the state raises and doles out on its behalf. That the state will decide which journalists are worthy of patronage, or who is considered a journalist at all, is a system ripe for abuse. Indeed, the

¹ [New research shows that the 2023 Canadian link tax has already failed – just like all the others](#), Walled Culture, 2024

proposed Consortium gives the Governor enormous power to choose allies to exert a political agenda. Everyone can agree that a thriving press ecosystem is vital. It does not follow that greater government influence or control will lead us to where we want to be. The **free** press must operate without fear or favor. This bill seeks to upend that principle.

Violation of the Internet Tax Freedom Act

The Internet Tax Freedom Act (ITFA) was enacted by Congress in 1998 and prevents local and state governments from issuing taxes that discriminate against digital goods and services and lessen the flow of interstate commerce. As a bill that explicitly targets digital interstate commerce and does not levy a similar tax on non digital goods and services, SB 686 flatly violates the federal statute. If passed, SB 686 would almost certainly invite legal challenges that would cost the Oregon taxpayer money and see the law thrown out.

For these reasons, we respectfully ask you to **oppose SB 686**. As ever, we offer ourselves as a resource to discuss any of these issues with you in further detail, and we appreciate the opportunity to provide the committee with our thoughts on this important matter. ²

Sincerely,

Zachary Lilly
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NetChoice

NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.

² The views of NetChoice expressed here do not necessarily represent the views of all NetChoice members.