

S. 1094, Journalism Competition and Preservation Act of 2023

As reported by the Senate Committee on the Judiciary on July 18, 2023

By Fiscal Year, Millions of Dollars		2023	2023-2028	2023-2033
Direct Spending (Outlays)		0	*	*
Revenues		0	*	*
Increase or Decrease (-) in the Deficit		0	*	*
Spending Subject to Appropriation (Outlays)		0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply?		Yes
		Mandate Effects		
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?		Yes, Under Threshold
		Contains private-sector mandate?		Yes, Cannot Determine Costs
* = between -\$500,000 and \$500,000.				

S. 1094 would authorize digital journalism providers to collectively negotiate with large online platforms over the terms and conditions of the platforms’ use of content. The bill would ensure that providers do not violate federal antitrust laws when they negotiate with or withhold content from large online platforms. S. 1094 also would prohibit platforms from retaliating against providers for participating in collective negotiations or arbitration authorized under the bill. In addition, the bill would require the Government Accountability Office (GAO) to study the effect of those negotiations and report to the Congress within five years. The provisions in S. 1094 would sunset six years after enactment.

Under the bill, providers and platforms could bring civil actions in federal courts to enforce the terms of arbitration agreements, and providers could sue collective entities formed for the purpose of joint negotiations if they are unlawfully excluded from membership. Federal courts charge fees to those who file civil cases. Those fees are recorded as federal revenues and can be spent without further appropriation to cover courts’ administrative costs. Because CBO expects that the number of additional cases would be small, we estimate that enacting S. 1094 would increase revenues and the consequent direct spending by insignificant amounts over the 2023-2033 period.

See also

[CBO’s Cost Estimates Explained](#), [CBO Describes Its Cost-Estimating Process](#), [Glossary](#)



Based on the cost of similar studies, CBO estimates that completing the required report would cost GAO less than \$500,000. Any spending would be subject to the availability of appropriated funds.

S. 1094 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting state anti-trust laws governing joint negotiations between digital journalism companies and large online platforms. Although it would limit the application of state laws, it would impose no duty on states that would result in additional spending. CBO estimates that the cost for this mandate would not exceed the UMRA threshold for intergovernmental mandates of \$99 million in 2023 (adjusted annually for inflation).

S.1094 also would impose a private-sector mandate on covered online platforms by prohibiting retaliation against a negotiating news organization. The cost of the mandate is any income lost by the platforms that would have been attained through successful retaliation. CBO cannot determine whether the cost of the mandate would exceed the UMRA threshold for private-sector mandates (\$198 million in 2023, adjusted annually for inflation) because CBO cannot anticipate the number of negotiations that would occur as a result of the bill, or the success rate of retaliation methods used by covered platforms.

The CBO staff contact for this estimate is Jon Sperl (for federal costs) and Erich Dvorak (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

A handwritten signature in black ink, appearing to read "Phillip L. Swagel".

Phillip L. Swagel
Director, Congressional Budget Office