



White Paper for the Trump Transition Team

About the Association

The News Media Alliance is a nonprofit organization representing nearly 2,000 news organizations and their multiplatform businesses in the United States and internationally. Alliance members include print, digital and mobile publishers of original news content, and provide the backbone of news coverage in the United States and the world. Our industry generates \$23 billion in total revenue and employs nearly 200,000 in the United States.

Our country is undergoing a fundamental transformation of the way in which Americans communicate and do business. The digital age has vastly changed the way we disseminate and receive information. We are an industry that was born before the formation of the United States, and have survived massive shifts throughout our history. The news media industry continues to be the lynchpin of credible information, uncovering facts, and permitting unfettered discourse that sets the United States apart from much of the world. We will adapt to our current environment as we have through the past centuries, and continue to meet the increasing demand for reliable content.

Laws or regulations in several key areas, however, unnecessarily hinder investment and economic growth in news media companies. We call on the new Administration to consider the following policy objectives of the news media industry.

Foster Economic and Job Growth through Investment and Tax Incentives

Outdated regulations should not be allowed to determine marketplace behavior and hinder economic growth.

- ***The 1975 ban on media cross ownership is grossly out of date.*** Rules adopted in the Nixon Administration prohibit companies that already own TV stations in a given market from investing in newspaper companies that serve the same market. Even if these rules made sense 40 years ago, when each market had one newspaper and three TV stations—and cable and the Internet did not exist—they do not make sense today. Amid the surge of online media that have become prevalent in the 21st century, the rules banning cross-media ownership no longer reflects the reality of today’s media landscape and they unnecessarily restrain investment.
- ***The Department of Justice (DOJ) should reject its narrow antitrust definitions for media markets.*** DOJ believes that print newspapers constitute their own market, and denies that newspapers compete with the Internet, television, radio, and other mass media. The DOJ’s outdated “market definition” locks newspapers into a 1970s-era advertising model and does not consider the numerous news sources the public has at its fingertips. The media landscape has changed dramatically, and the Department of Justice should take these changes into account in considering antitrust issues. In particular, DOJ should not be allowed to hinder newspaper companies in their goal of operating successful businesses and contributing to the economy.

- ***Tax treatment of media companies should be changed to reflect the digital nature of today's business.*** Section 199 of the Internal Revenue Code was intended to incentivize production and employment in the United States through tax deductions that reward companies for domestic manufacturing. News media companies continue to print newspapers, as advertising and circulation revenue remain a valuable stream of income, which in turn is reinvested in the companies. However, when taking a Section 199 tax deduction for printing, the income from digital distributions cannot be offset as it is for other content creators such as film and television. This should be updated to extend the deduction to qualified digital distributions of news media content, so that the deduction—like the news media itself—is agnostic to the platform in which content is delivered.

Promote Content Creation through Strong Copyright Protections

Copyright laws must be structured to allow for a return on investment, and not to encourage aggregators, search engines, social media sites and advertising networks to build revenue from content in which they do not invest. We encourage the new Administration to encourage the House and Senate leadership and Judiciary Committees to move forward with Copyright Act reform to update copyright protections for the digital age.

- ***Strong copyright protection is needed.*** Newspaper content makes up approximately two-thirds of the content on news aggregation platforms such as Google News, but many of these relatively new players in the digital ecosystem build audiences and generate revenue from newspaper content with little if any revenue coming back to those who have invested in creating the original content. Today, the news media industry invests roughly \$5 billion each year in long-form investigative journalism. Our nation's copyright laws must be structured and implemented in a way that allows for a return on this massive investment. Today, outdated interpretations of copyright laws mean that the industry is currently forced to give away much of its product for free. The government needs to put in place copyright protections that allow news organizations and other content creators to fairly benefit from their critical efforts and investments.
- ***“Fair use” should be reoriented toward its original meaning.*** Under current copyright law, a person that does not own a copyright may still use a copyrighted work if it is consistent with the “fair use” factors, which assess: (1) the purpose and character of the use, (2) the nature of the copyrighted work, (3) the amount and substantiality of the portion taken, and (4) the effect upon the potential market. The courts, unfortunately, have dramatically weakened this test by finding a fair use any time a new use could be seen as “transformative.” This test has undermined the integrity of the long-established fair use factors. As part of any Copyright Act rewrite, we support refocusing the fair-use test on its original purpose to prevent courts from undermining the Constitution's encouragement of compensation to entities that generate creativity and productivity.
- ***Copyright Office reform.*** As recent events have demonstrated, the Library of Congress is an ineffective home for the Copyright Office. Like patents and trademarks, copyright requires autonomy in the federal government with a presidentially appointed and Senate confirmed leader who can elevate the importance of copyright protection through policy decisions. We encourage the

Administration to consider Copyright Office modernization to be an essential element of a revitalized Copyright Act.

Uphold Transparency and Constitutional Rights to Free Press, Free Speech

A free, diverse and independent press is essential in our democracy to inform the public of the actions being taken by its elected officials. We urge the new Administration to follow longstanding traditions of pool coverage and press access so that Americans from across the country can better understand the actions being taken by those in whom Americans have placed their trust.

- ***The press pool is essential to informing the public about the President's whereabouts, actions, and well-being.*** The President's press pool chronicles the unfolding events of a presidency, both large and small. The pool is designed as the eyes and ears of the people, with the goal of keeping the public informed about the president's activities. The pool follows the president even in mundane activities, because important news can happen in the most mundane of places. For this reason, every president in recent memory has traveled with a pool of journalists when he leaves the White House grounds. Reporters and photographers were in the motorcade in Dallas when President John F. Kennedy was assassinated, were steps from President Ronald Reagan when he was shot, and were in an elementary school classroom with President George W. Bush when news of the September 11 attacks broke. Without the immediate knowledge these reporters were able to convey at these times of national crises, the country could have spiraled into panic. News can strike at any time and without a pool on site to inform the public about the President's whereabouts, speculation and fear can prevail.
- ***The independence of the American press is essential to its ability to perform its duties.*** That independence can only exist if the government that is responsible for providing access to press coverage ensures that credentials and access are made available in an even-handed and neutral manner. In particular, the Administration must not withhold press credentials from media organizations based on the content of the news coverage by those organizations. Press credentials should be assigned under neutral and time-honored procedures. The Administration should also ensure there are regular opportunities for the news media to ask questions about the President's priorities and to understand his daily schedule, including through continued daily press briefings. There is value in providing a level of detail into the President's thinking. Transparency is the key to a well-informed electorate. We urge the Administration to make available key documents that underlie its decisions, and to encourage Executive Branch agencies to interpret the Freedom of Information Act in a manner that favors the disclosure of government information to the American people.