

Proposed Legislation Concerning Application of Antitrust Laws to the Bargaining Activities of Freelance Writers, Artists, and Songwriters

SECTION 1. SHORT TITLE.

This Act may be cited as the Freelance Author and Artist Freedom Act (“FAAFA”) of 2021.

SECTION 2. APPLICATION OF ANTITRUST LAWS TO FREELANCE WRITERS, ARTISTS, AND SONGWRITERS

The antitrust laws shall apply to freelance writers, freelance artists, and freelance songwriters for purposes of negotiating the terms and conditions of contracts for the license of written material, photographs or other visual works created by them to publishers, distributors, or service providers (collectively “publishers”), in the same manner as such laws apply to collective bargaining by employees who are members of a bargaining unit recognized under the National Labor Relations Act (29 U.S.C. 151 et seq.) to organize, mutually support one another, and engage in collective bargaining with publishers.

SECTION 3. DEFINITIONS.

For purposes of this Act:

A. Antitrust laws. – The term “antitrust laws” —

- (i) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and
- (ii) includes any State law similar to any of the laws referred to in subparagraph (i).

B. The following terms have the following meanings:

- (i) “freelance writer” means an individual who writes text-based works as a profession, including book authors, playwrights, journalists, poets, critics, copywriters, or digital media writers and creators;
- (ii) “freelance artist” means an individual who creates visual art as a profession, including fine artists, graphic designers, photographers, videographers, photojournalists, illustrators, cartoonists, and animators; and
- (iii) “freelance songwriters” means an individual who writes musical compositions and lyrics, including composers, librettists, and lyricists.

in each case on a freelance basis for present or future compensation but excludes such an individual to whom the National Labor Relations Act applies.

C. “Publisher” means a person who produces or distributes any publication, periodical, magazine, newspaper, book, manual, advertising materials, website, music, sound recording, or other similar material, whether in printed, electronic, or other form.