



The Honourable Arif Virani
Minister of Justice and Attorney General of Canada
House of Commons
Ottawa, Ontario, Canada
K1A 0A6

CC: The Rt. Hon. Justin Trudeau

Subject: CIVIL SOCIETY JOINT STATEMENT: Request for Bill C-63

Dear Minister:

We, the undersigned civil society organizations, academics and experts are writing to express our deep concern with key sections of Bill C-63, the Online Harms Act. We ask that you separate Parts Two and Three of Bill C-63, which contain the proposed changes to the Criminal Code and Human Rights Act, for independent parliamentary consideration, so that the aspects of the Online Harms Act central to its purpose can receive the scrutiny and broad public consultation they need and deserve.

Since the introduction of Bill C-63, public conversation and debate have overwhelmingly centered on the parts of the bill we are asking be separated. Critics, academics, and civil society members have raised many concerns that the proposed changes to the Criminal Code, including potential lifetime sentences and preemptive peace bonds for acts of speech, are disproportionate, unlikely to meaningfully reduce the expression of hate online, and risk creating a serious chilling effect on lawful speech and debate.

Commentators including well-respected former Human Rights Commission staff have also expressed deep concerns about the practical effectiveness and perverse incentives of Bill C-63's proposed changes to the Human Rights Act. Many have pointed out that the volume of complaints brought to the Canadian Human Rights Commission (CHRC) is likely to be extraordinary, creating years of backlog for complaints to be addressed, and potentially slowing its processing of complaints it currently answers that have direct employment or health impact on specific individuals.

Serious concern has also been raised about problematic incentives that Bill C-63 creates for "testing one's luck" by submitting complaints. Complaints may be filed anonymously, at no cost to the complainant, and if successful, could lead to defendants facing fines of up to \$70,000, with up to \$20,000 awarded directly to the anonymous plaintiff. This procedural framework lacks basic elements of justice, including evidence or truth assessment. It strongly encourages weaponizing the Commission's process, causing huge reputational and financial harm with minimal financial risk and some chance of benefit. This ill-considered system is not ready for

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adoption and needs deeper reevaluation than Bill C-63's committee time and amendments will allow.

Separating the highly contentious Parts Two and Three of Bill C-63 into their own legislation will allow both parliamentarians and the public to focus on the actual central purpose of Bill C-63: properly defining the mandate, powers, and functions of the new Digital Safety Commission, Digital Safety Ombudsman, and Digital Safety Office of Canada.

If this separation is not made, the clear and present risks posed by these problematic portions will continue to overshadow Bill C-63's main goal: establishing a regulatory body to mitigate categories identified by the Bill as illegal harmful content that negatively affects Canadians, especially Canadian youth. That overshadowing could delay or even prevent the passage of Bill C-63, and it will curtail time needed to address necessary transparency and accountability on the powers of the new Digital Safety Commission, which if approved, will be the most powerful regulator of Canada's Internet.

In the coming weeks, we hope to see you act on our recommendation and clear the way for proper consideration and broad public consultation of Bill C-63's primary purpose. We will be happy to meet with you to discuss this and other issues with Bill C-63 in more detail.

Sincerely,

Organizations

OpenMedia

Amnesty International Canada (English-Speaking Section)

British Columbia Civil Liberties Association (BCCLA)

Canadian Association of University Teachers

Canadian Civil Liberties Association (CCLA)

Canadian Council of Muslim Women (CCMW)

Canadian Internet Policy and Public Interest Clinic (CIPPIC)

Canadian Muslim Public Affairs Council (CMPAC)

Canadians United Against Hate / Canadiens Unis Contre la Haine

Centre for Free Expression

Independent Jewish Voices Canada

International Civil Liberties Monitoring Group (ICLMG)

Ligue des droits et libertés

PEN Canada

Prisoners' Legal Services

Privacy & Access Council of Canada

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Individuals

Brenda McPhail, Director, Executive Education, Public Policy Program, McMaster University

Jillian Rogin, Associate Professor, University of Windsor, Faculty of Law

Kirk Lubimov, President & Investor, Testbed Lab

Kristen Thomasen, Assistant Professor, University of British Columbia, Peter A. Allard School of Law

Sharon Polsky MAPP, President, Privacy & Access Council of Canada

Vivek Krishnamurthy, Associate Professor, University of Colorado Law School