



Matt Hatfield, Campaigns Director, OpenMedia

Standing Committee on Canadian Heritage

Re: The impact of the Online Streaming Act, Bill C-11, on Canadians

Tuesday, May 24, 2022

Opening Remarks (Check against delivery):

Good afternoon. I'm Matt Hatfield, and I'm the Campaigns Director at OpenMedia, a grassroots community of over 200,000 people in Canada that work together for an open, accessible and surveillance-free Internet. I am speaking to you from the unceded territory of the Sto:lo, Tseil-Waututh, Squamish and Musqueam Nations.

OpenMedia is not made up of academics or lawyers — we're a citizen's group. I'm here today to ask you to ensure the Online Streaming Act respects the choices and freedom of expression of ordinary citizens.

The Internet works nothing like traditional broadcasting. I say that knowing full well we're gathered to discuss a Broadcasting Act reform bill, which gives the CRTC, a broadcasting-era regulator, the power to treat Internet content as if it were broadcasting.

But holdover ideas from the radio and television era are the reason for the deep confusion you've run into as a committee in trying to keep Bill C-11, and its predecessor Bill C-10, from seriously overstepping the government's intent.

Traditional broadcast was a top-down system in which the wishes and preferences of Canadians could not be directly expressed. Our only choice was to watch what a broadcaster chose to air on one of a few dozen channels, or not watch at all. No one gave us a chance to share our own thoughts and voice, outside a few proud local community stations with limited reach.

The Internet is utterly different. Every day, each of us make hundreds of choices between millions of channels and pieces of content online. And many of us take the next step and share our words, jokes and passion back into that system, through the same distribution platforms. We're not passive recipients of the Internet. We're active participants in crafting the feeds we want, we follow the individual creators we like, and we use platforms like Patreon or Youtube to earn revenue from our fellow Internet users.

Treating the broadcasting system and modern Internet as fundamentally similar would seem like a joke, if the consequences were not so potentially serious.

We've heard for over a year that Bill C-10 and C-11 would never regulate user content. Minister Guilbeault's team pretended that excluding users personally as legal entities meant their content was safe from CRTC regulation; that was untrue. Minister Rodriguez's team is telling us they've fixed it, and user content is now excluded; but last week, CRTC Chair Ian Scott confirmed that is not true, and our content is still subject to CRTC regulatory control under Bill C-11.

You need to fix this. We understand the CRTC believes it has always had the power to regulate our user audiovisual content online. That's a theoretical position that doesn't matter to ordinary Canadians. Concretely, you are now considering a Bill in which the CRTC will explicitly take up and use very broad regulatory powers it has never exercised before over the Internet. The minimum safeguard you must adopt would be ensuring that user-generated content is fully, plainly and definitively excluded from CRTC regulation.

Section 4.1(2), which re-includes most of our online user content in the CRTC's control, is the heart of the problem. The three criteria laid out in 4.1(2) do not meaningfully protect any of our content. More or less, everything online earns revenue, everything has unique identifiers attached to it, and all major online platforms will be 'broadcast undertakings', registered with the CRTC.

All we're really getting from the government right now is a flimsy promise that the CRTC won't misuse its astonishing expanded power, and a policy direction they won't even let Canadians see yet.

That's not good enough. Policy directions can be changed at will, which means at any time, a future government could issue new CRTC guidance requiring they regulate our posts directly.

Our online rights must be legally entrenched, not informally promised. Canadians need section 4.1(2) removed altogether, or much more definite limitations placed on it. You must clearly exclude all of our podcasts, Tiktoks, Youtube channels, and social media posts from this Bill. Leaving this dangerous loophole clause this wide open is not responsible legislation; it is leaving a door ajar for future mass censorship of Canadians' personal online expression.

While respecting the content we produce, our government must also respect our right to freely choose the content we consume. We would never tolerate the government setting rules specifying which books must be placed in the front window of our book stores; but that's exactly what the discoverability provision in Section 9.1(1) of C-11 is currently doing.

Manipulating our personal search results and feeds to feature content the government prefers instead of other content is gross paternalism that doesn't belong in a democratic society. Any promotion requirement on platforms for government-selected CanCon should respect our choices and limit itself to optional or opt-in results, not mandatory quotas.

*OpenMedia is a community-based organization that works to
keep the Internet open, affordable, and surveillance free.*



People in Canada are looking to see whether public officials like yourselves are going to defend our fundamental rights. Since last year, OpenMedia community members have sent over 53,000 individual emails to our MPs and the Department of Canadian Heritage on Bill C-10 and Bill C-11. While our community is interested in seeing Canadian stories told in the 21st century, it cannot come at the price of a blank cheque to the CRTC to take regulatory authority over our audiovisual posts, or having the government decide what we should be watching and listening to. We urge you to ensure fix Bill C-11's overreaching on both these fronts before the Bill leaves your hands.

Thank you and I look forward to your questions.