



To: The Honourable Pablo Rodriguez
Minister of Canadian Heritage
House of Commons
Ottawa, ON K1A 0A6

May 9, 2023

Subject: OPEN LETTER: Requests for your policy directive on Bill C-11 to the CRTC.

Dear Minister:

We are writing to clarify several contentious matters regulated by the Online Streaming Act (Bill C-11) in your policy directive to the Canadian Telecommunications-Radio Commission (CRTC).

As passed into law, we continue to believe that Bill C-11 presents a significant risk to a free and open Internet. We are particularly concerned that the broad discretionary powers the CRTC has been granted over online content could be used to inappropriately regulate Internet user content and to manipulate or constrain user online choices. We are asking you to use your policy direction to the CRTC on Bill C-11 to resolve ambiguities of interpretation in the legislative text, and clearly indicate Canadians' uploaded content and content choices must not be interfered with in implementing Bill C-11's valid objectives. While promoting Canadian cultural content is a commendable objective, any measures to achieve this should respect user rights and choice.

Here are our specific recommendations for moving Bill C-11 from legislation to regulation:

1. **Protect user-generated content:** User-generated content must be plainly and explicitly excluded from the possibility of CRTC broadcasting regulation, above the limited protection afforded by Section 4.2(2). Only clearly professional, commercial audiovisual content should ever be considered by the CRTC.
2. **Set boundaries on 'discoverability':** Promotion of CanCon on online platforms must be balanced with respecting user preferences and choice. Rather than forcing comprehensive algorithmic manipulation across every feed and search result of Canadians, the CRTC should be instructed to pursue more bounded promotion requirements, such as mandating the creation and surfacing of Canadian content playlists, or allowing Canadian platform users to opt-in to having more CanCon included in their algorithmically generated feeds.
3. **Update CanCon first:** The current CanCon system has created an exclusionary culture that leaves many Canadian creators unable to qualify as "Canadian". A complete revision of the CanCon certification system to be fair, inclusive, and appropriate to 21st century content production is necessary before C-11 comes into practical effect, ensuring its financial and promotional support is available to any Canadian creator who seeks it.



4. **Limit platform scope:** The policy direction should clarify that relatively small and niche foreign streaming platforms are not appropriate targets for C-11's CanCon content obligations. This will resolve uncertainty in the Bill's potential application for these platforms, making them exiting Canada or blocking their Canadian users substantially less likely.

We believe implementing these recommendations is crucial to ensuring that the Online Streaming Act benefits all Canadians, protects their rights and interests, and promotes a vibrant and diverse digital economy.

To ensure your policy direction on C-11 sets the appropriate balance in implementing the Bill, we urge you to conduct a public consultation with Canadians before finalizing the policy direction to the CRTC regarding the Online Streaming Act, as the government has done on other recent policy instructions. This will increase transparency and accountability in the policy-making process and ensure that the final policy reflects the needs and priorities of Canadians.

We urge you to consider these recommendations as you develop your policy direction to the CRTC. We will continue to engage with you throughout the implementation of Bill C-11 and are available to meet with you directly to discuss these recommendations and other issues in more detail as needed.

Sincerely,

Organizations:

OpenMedia

Digital First Canada

Canadian Taxpayers Federation

Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic

Internet Society Canada Chapter

Individuals:

Konrad von Finckenstein

Michael Geist

Peter Menzies