



**Matt Hatfield, Campaigns Director, OpenMedia**

Senate Committee on Transport and Communications

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

Wednesday, September 14, 2022

**Opening Remarks (Check against delivery):**

Good evening. I'm Matt Hatfield, and I'm the Campaigns Director of OpenMedia, a grassroots community of over 220,000 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.

I'm here to speak up for ordinary Canadian Internet users, because Bill C-11 was not written for us. Respecting the freedom of expression and experience of ordinary Canadians should have been the first principle of this Bill; it is not. As the House of Commons has handed it to you, C-11 continues to give the CRTC the power to set broadcast regulations that limit the posts of millions of Canadians if it chooses to. It gives them a carte blanche to demand every public playlist, feed and search result on our Internet be adjusted to feature content the CRTC chooses, and remove content it doesn't. These enormous powers make the Bill a breathtaking case of regulatory overreach unlike anything seen anywhere else in the world.

Bill C-11 starts with a fundamentally wrong idea: that the Internet is similar to traditional broadcasting, and should be regulated in the same way. It isn't, and it shouldn't.

Traditional broadcast was a radically top-down system. If you turned on your radio or television set, you could select between a few dozen programs that a small set of broadcasters had pre-selected for you, and that was that. That extremely narrow system led 1960s Canada to develop the broadcasting content regulation that it did.

Does that system sound like the Internet to you? Every day, each of us makes hundreds of choices between millions of channels and pieces of content online. That hasn't made us a US-dominated monoculture; it is the next incredible step in being a multicultural country. Young Canadians enjoy cultural content with roots all over the world; k-pop, telenovellas, Nordic crime mysteries and of course, huge amounts of content from home. Many of us share our words and passion back onto the Internet, 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 contribute to and earn revenue from our fellow Internet users.

Too much of C-11 is written from a position of fear of user choice, and a desire to turn back the clock on how Canadians receive information and communicate. That's led to enormous overreach in what the Bill attempts to regulate - overreach we hope you will now correct.

First, the posts of ordinary Internet users must be plainly and fully excluded from regulation as broadcasting. Some people will tell you Section 4.2(2) does this; it doesn't. The three criteria in that section - whether content makes anyone revenue; OR, not and, whether it has a unique identifier; OR, whether it includes content that has ever been on a broadcast platform - are so broad they include essentially all our user audiovisual content on every platform.

Bill C-11 may not be intended to be a user censorship bill. But unless you fix it, with the wrong government appointing the wrong CRTC, it could easily become one.

We recommend striking 4.1(2) and 4.2 altogether, or much more narrowly scoping the criteria in section 4.2(2). Either way it needs to be fixed now, in this chamber, before C-11 becomes law. A policy direction from Cabinet that sets limits can be easily changed or retracted. Exclusion must be clear in the Bill.

Second, Bill C-11 must not give the CRTC the power to manipulate the results of algorithms on platforms. We would never tolerate the government setting rules specifying which books must be placed in the front window of our book stores, or what kind of stories must appear on the front page of our newspapers; but that's exactly what the discoverability provision in Section 9.1(1) of C-11 does.

This dictatorial approach is not needed or appropriate. Striking the 'discoverability' language in 9.1, while keeping the language asking platforms to showcase Canadian content, would be a reasonable compromise. That change could make it easy for users to explore Canadian cultural content when we want to, but not have our feeds overwritten by content the government chooses for us everywhere we go online.

Lastly, you must introduce a Canadian revenue threshold for which platforms are asked to pay into or produce for the CanCon system. It is nonsensical for C-11 to place obligations on platforms with a few thousand Canadian subscribers; but right now, they face the same obligations as everyone else – and they're likely to opt out, blocking service in Canada. It would be a cruel consequence of this Bill for diasporic Canadian communities to be cut off from the invaluable cultural lifeline provided by foreign streaming services.

Since last year, OpenMedia community members have sent nearly 82,000 emails to our representatives on Bills C-10 and C-11. I speak for them in saying we wish the House of Commons had done a better job of respecting our online expression and choices and appropriately limited the scope of Bill C-11.

They didn't; they let Canadians down. Now the baton has been passed to you. It is the Senate's responsibility to pass amendments that do a better job of balancing between the Bill's aims and our fundamental rights.

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



Thank you and I look forward to your questions.