OTTAWA - Proposed legislation that was reintroduced last month to regulate online streaming giants in Canada still largely overlooks online content creators, experts say, and could have a chilling effect on one of the country’s most successful talent pools.

Bill C-11 was introduced in early February as a successor to C-10, a contentious piece of legislation that sought to update Canada’s Broadcasting Act and bring streaming platforms like Netflix and Crave under the same regulations already applied to traditional television and radio broadcasters.

But critics say the bill’s broadness and muddy safeguards are reigniting concerns that its regulations could apply to platforms featuring user-generated content, such as TikTok and YouTube.

"There's no distinction in the bill to differentiate the two," said Scott Benzie, managing director of Digital First Canada, an advocacy group for online creators.

"The problem really arises when they bring in platforms that rely on user-generated content, because the regulations that they want to apply doesn't just affect the platforms, it affects the users." The bill includes an exception for content uploaded and consumed by users of a "social media service," a term which is not clearly defined in the legislation.

But it includes some caveats, says Michael Geist, Canada Research Chair in internet and e-commerce law at the University of Ottawa.

"There are still exceptions in there that quite clearly incorporate user-generated content within these rules," Geist said. "There's an enormous amount of uncertainty still ... about how it will be applied."

The new bill gives the Canadian Radio-Television and Telecommunications Commission (CRTC) the discretion to consider exceptions, including whether content uploaded to social media directly or indirectly generates revenue.

Geist warned that could rope in content like TikTok videos and podcasts, despite the government's assurances to the contrary.

"There were problems in the past. We admitted that and we fixed it," Heritage Minister Pablo Rodriguez told heritage committee members. It's Canadian stories. It's the music. It's the filming ... It's not TikTokkers," he added.

The lack of clarity is not insignificant; millions of Canadians use YouTube, Twitch and TikTok, and some of the most popular accounts belong to Canadians.

Some of the concerns stem from the "discoverability" requirements in the bill, which dictate how and when Canadian content should be promoted on platforms above content created elsewhere.

"If you're a digital-first creator, it's not at all clear that your content is going to be promoted ." Geist said.
More concerning, Geist said, is how discoverability rules may force Canadian YouTube or TikTok content into Canadians' feeds, regardless of whether or not they actually want to see it. Canadian content could receive fewer clicks as a result, meaning algorithms will brand those videos as something people aren't interested in.

Benzie told the Star that the confusion that still exists in the legislation today stems from a "real lack of institutional knowledge" at the government level.

NDP MP Matthew Green agrees that the bill was revived without an understanding of the digital-first ecosystem in mind.

"My concern with the bill is that it's addressing an almost obsolete form of news and media creation, without adequate consideration of what's being developed and evolving now," Green told the Star.

While Green says he doesn't yet have an "elegant solution" to fixing the bill - which is at second reading in the House of Commons - Geist is hopeful there is room for change.