Senate makes key change to feds' online streaming bill to keep YouTube videos out

Government says it has no plans to regulate digital user-generated content like YouTube videos

Marie Woolf

OTTAWA - Senators have removed controversial wording from the federal government's online streaming bill that digital video creators feared could have led to the regulation of user-generated content on platforms such as YouTube and TikTok.

The move, designed to reassure people who post videos on digital platforms that they are beyond the bill's scope, follows failed attempts by Conservatives in the House of Commons to amend the clause.

Bill C-11 would update Canada's broadcast laws so that they cover streaming platforms, including Netflix, Amazon Prime and YouTube. Under the new rules, those platforms would have to promote and support Canadian creative work, including songs, TV programs and films.

Many people who make their living posting videos on YouTube have raised concerns about C-11 in evidence to parliamentary committees studying the bill, as has YouTube itself. Some TikTok creators have warned they would be prepared to leave the country if the legislation saddles them with bureaucracy.

An amendment passed in a Senate committee this week alters Section 4.2 of the bill, which as originally worded would have given the Canadian Radio-television and Telecommunications Commission the power to impose regulations on "programs" if they "directly or indirectly" generate revenues. YouTube has said this could give the CRTC the ability to regulate practically everything on its platform.

The amendment removes the revenue test and narrows down what is meant by a "program." The new definition would include professionally produced music, including music videos and professionally recorded songs also posted on platforms such as Spotify, but would exclude amateur content.

The government has said it has no plans to regulate digital user-generated content, including amateur videos posted on platforms such as YouTube.

Senator Paula Simons, who tabled the "surgical" amendment with Senator Julie Miville-Dechêne, said in an interview that they had taken the concerns of digital-first creators seriously, and that the change was "meant to deal with a real flaw in the bill."

"The language is so confusing. We worked very hard to craft an amendment that would please both sides," she said.

Conservative senators backed the change.

"It was very clear that the language here was considered too threatening by creators. This was an effort in clarity," Ms. Miville-Dechêne said.

Laura Scaffidi, a spokesperson for Heritage Minister Pablo Rodriguez, said officials are still studying the wording of the amendment.

Both YouTube and TikTok said they are also still studying the amendment's implications.
Michael Geist, the University of Ottawa's Canada Research Chair in internet law, said the amendment was an elegantly worded attempt to "strike a reasonable compromise and hold everyone to their word."

He said it addresses "the government's stated intent of excluding users, and the platforms' claims of a willingness to contribute to the Canadian system."

"The big question is whether the government will accept the amendment or not," he said. "If not, it will send a clear message that regulating user content is its actual intent."

Jerome Payette, executive director of the Professional Music Publishers' Association, said his organization is still studying the text. He said he felt the bill did not need the amendment.

"This is just pleasing the platforms," he added.

Nicole Van Severen, a spokesperson for SOCAN, which represents Canada's songwriters and composers, said "the amendment to Section 4.2 proposed by the Committee will not support Canadian songwriters and composers in a modern digital age."

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