Heritage Minister rejects key C-11 amendment, puts himself on potential collision course with Senators

Digital-first creators accuse government of dismissing their concerns that legislation would regulate user-generated content

Marie Woolf

Ottawa - Heritage Minister Pablo Rodriguez has rejected a number of Senate amendments to the government’s online streaming bill, putting himself on a potential collision course with the Red Chamber.

As Bill C-11 reached its final stages in Parliament before becoming law, the government rejected a key change designed to clarify that the bill would not lead to the regulation of user-generated content - such as amateur videos - on platforms such as YouTube.

The decision was criticized Tuesday night by digital-first creators who accused the government of dismissing their concerns.

Digital creators and YouTube have warned that the bill’s wording is unclear and could lead to the regulation of user-generated content, including amateur videos on digital platforms, despite the Minister’s assurances that this is not the government’s intention.

An amendment tabled by two senators, Paula Simons and Julie Miville-Dechêne, clarified that the bill would not cover user-generated content, though it would allow for the regulation of professionally produced music videos.

Ms. Simons said the wording of her amendment, which the Senate approved, was designed to align the bill’s text with the stated intention of the government not to regulate people’s YouTube videos.

Bill C-11 would update Canada’s broadcast laws to 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 to parliamentary committees studying the bill, as has YouTube itself.

Michael Geist, the University of Ottawa’s Canada Research Chair in Internet Law, said Mr. Rodriguez’s rejection of the amendment suggests that fears that the bill would leave the door open to allow the regulation of the work of digital-first creators were justified.

"It is exceptionally discouraging to the thousands of Canadian creators who spoke out," he said.

Scott Benzie, director of Digital First, which represents digital creators, said it was "shocking that the Senate's sober second thought was dismissed, and that the government continues to act as though digital creators are not legitimate artists and entrepreneurs."

On Wednesday, the House of Commons will debate C-11 and the government’s decision to reject a number of Senate amendments, before sending it back to the Senate.

The Minister accepted a slew of Senate amendments, and told The Globe and Mail "we recognize their exhaustive work, and we will be accepting a large majority of the amendments they adopted."

"As promised we are accepting amendments that ensure tech giants pay their fair share toward our culture, and we are declining amendments that create loop-
holes," he said. "That's what Canadian artists and creators have asked us to do."

Don Plett, leader of the opposition in the Senate, has urged senators to stand firm and insist their amendments are accepted.

The Minister also rejected an amendment that would have required tech platforms to demand age verification to stop children under the age of 18 from accessing sexually explicit material. The government argues the amendment did not belong in this particular bill, which is about regulating online streaming platforms.

Another Senate amendment that was not accepted would stop the CBC from carrying sponsored content that looks similar to news.

The CBC identifies the sponsored content it carries, and objected to the amendment by Senator Percy Downe who said in the Senate Transport Communications Committee that his amendment would stop the public broadcaster accepting sponsored content once and for all.

FRIENDS (formally Friends of Canadian Broadcasting) is among the groups that argued that the CBC should not carry paid-for content that could be confused with journalism.

Ms. Simons said she was disappointed that Mr. Rodriguez had rejected her amendment clarifying that the bill would not cover user-generated content. She said the government had "missed an opportunity to solve a problem" with the bill in a "face-saving way."

The language in the bill remained "murky," she said, but added that she hoped Mr. Rodriguez would send a ministerial direction to the Canadian Radio-television Telecommunications Commission, which would regulate streaming platforms alongside traditional broadcasters, making it clear that user-generated content would not be covered.

Explaining why it had rejected her amendment, the government said in a Commons motion tabled on Tuesday evening that provision would "prevent the broadcasting system from adapting to changes over time."

The bill gives the CRTC 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 by Ms. Simons and Ms. Miville-Dechene would have removed the revenue test and narrowed down what is meant by a "program." It would have scoped in professionally produced music, including music videos and professionally recorded songs also posted on platforms such as Spotify, but would exclude amateur content.

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