Heritage Minister Pablo Rodriguez proposes regulations to address Google, Facebook's Bill C-18 concerns

Government's proposals designed to head off tech giants' threats to block Canadians' access to news

Marie Woolf

Ottawa - Ottawa made a bid Monday to bring Google and Facebook onside with its Online News Act, proposing a set of regulations designed to address many of the tech giants' concerns with the legislation.

The move comes after Google and Facebook warned they will block access to Canadian news stories in this country in response to the legislation, also known as Bill C-18.

Heritage Minister Pablo Rodriguez is proposing regulations that include setting a cap on how much Google and Facebook would have to contribute to Canada's news industry under the legislation. Existing commercial agreements between the tech giants and news organizations would also be taken into account, the proposals say.

The government refused to accept amendments addressing the tech giants' concerns when Bill C-18 was debated in Parliament, but now appears to be softening its position after Google and Facebook threatened to exit Canadian news. The Online News Act will come into effect by the end of the year.

Michael Geist, the University of Ottawa's Canada research chair in internet law, said "the government appears to have caved on its own legislation."

"Its planned regulations toss aside the principles it insisted were essential, replaced by government regulations on unique financial thresholds for each platform," he said.

Mr. Geist expressed doubt that the regulations would be enough to keep Meta, which owns Facebook and Instagram, from blocking Canadians' ability to access and share Canadian news on its platforms.

Meta, which owns Facebook and Instagram, has said it plans to withdraw Canadians' access to news on its platforms in response to the act and is no longer in discussions with the government about it. It has said its concerns about the legislation cannot be met through regulations.

Google also warned it would withdraw links to Canadian news in this country, but implied that this could be avoided if the government could find a compromise that meets its concerns.

Bill C-18, which received royal assent last month, was designed to support the Canadian news industry, which has seen its advertising migrate to the Big Tech platforms. It would make Facebook and Google negotiate deals to compensate news outlets in Canada for posting or linking to their work.

The federal Heritage Department said in a background paper Monday that the regulations the minister is proposing to the Online News Act would "establish a financial threshold for contributions to sustainability of the Canadian news marketplace." This would be "based on a platform's estimated Canadian revenues and would be specific to each platform and their position within the news marketplace."

"Once finalized, the regulations will make clear which platforms are captured by the Online News Act and what the agreements negotiated between news businesses and platforms must do to get an exemption," it added.

The regulations would also provide...
more clarity on how many deals the tech giants would have to make with local news businesses, Indigenous news outlets and French-language news outlets, the Heritage department said in a background paper.

They would also spell out that existing commercial agreements between the tech giants and news organizations would be considered under the C-18 regime.

Paul Deegan, president and CEO of News Media Canada, said the regulations were "a very positive development."

"The regulations need to balance the needs of both platforms and publishers and provide both sides with a reasonable level of predictability. Basing payments on their Canadian revenue, which stands at roughly $4- to $5-billion each, seems fair and appropriate," he said. "Clearly, the government is showing good faith, and we would expect leading corporate citizens to reciprocate."

Senator Paula Simons, a former journalist who sat on the Senate committee scrutinizing Bill C-18, said the proposed regulations were "half an olive branch" to Google. But she said they would alter the way the legislation would be applied and be "concerning for people who were expecting this bill to be a rescue package" for the news industry.

The regulations being drafted address some of the key concerns raised by Google during the passage of the bill through Parliament. It sought clarity on how much it would have to contribute to papers, digital news outlets and broadcasters to be exempt from a mandatory bargaining regime overseen by the Canadian Radio-television and Telecommunications Commission (CRTC).

Google has argued Bill C-18 is heavy-handed and "unworkable" and could lead to unlimited financial liability with no obvious path to exemption from regulation, even if it negotiates more voluntary deals with news organizations.

The tech giant proposed amendments when the bill was in the Senate, including to make exemption criteria clearer, which were not accepted by the government. Google also wanted "non-monetary support" for news organizations to be considered as a contribution "for the purpose of exemption."

The regulations being drafted in Ottawa make clear that training and other "non-monetary offerings to news organizations" would be included in the CRTC's assessment of exemption criteria.

Sara Bannerman, McMaster University's Canada research chair in communication policy and governance, said "the draft regulations would allow Google or Meta to meet its obligations under the Online News Act, in some cases, by not paying for news."

"Rather, they might 'pay' for news by providing training, infrastructure, or data agreements that would make Canadian news media more dependent and interlinked with platforms that, as we have seen, might pull out of Canada if providing news doesn't meet their business model," she said.

Google declined to comment on the regulations being drafted and whether they would be enough to keep it from blocking searches for Canadian news. Talks took place last week between Google and ministerial staff on Bill C-18 and are continuing.

Meta declined to comment.

Mr. Rodriguez said Monday that he remains optimistic that the tech giants' concerns can be resolved through regulations, suggesting that Facebook should resume talks.

Last week, he announced the government is pulling its annual $10-million worth of government advertising from Facebook and Instagram in response to Meta's decision to stop Canadians accessing news on its platforms.

"We're deeply convinced that Google's and Facebook's concerns could be resolved through the regulatory process," Mr. Rodriguez told The Globe and Mail. "If Facebook truly believes that news has no value, they can say so at the negotiating table."

Google and Facebook have reached a number of voluntary deals with Canadian news organizations, including The Globe, to pay for use of their content.

But Facebook has now written to news publishers it has financial deals with, including The Globe, telling them it is cancelling those agreements at the end of this month in response to the Online News Act.

By blocking links to Canadian news stories, Google and Facebook would no longer be regulated under the act or forced to negotiate deals with publishers.

Follow this link to view this story on globeandmail.com: Heritage Minister Pablo Rodriguez proposes regulations to address Google, Facebook's Bill C-18 concerns
This article appeared in The Globe and Mail (web site)

https://www.theglobeandmail.com/politics/article-minister-drafting-regulations-to-address-googles-concerns-over-bill-c/