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LEGISLATION

Keeping content in check

Heritage minister open to compromise over online streaming act

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POSTMEDIA NEWS

Heritage Minister Pablo Rodriguez says he would be willing to amend his Online Streaming Act over concerns the legislation is too broad and puts too much power in the hands of the CRTC.

“Of course we’ll listen to the experts,” he said in an interview.

“We think that we got the right balance. If there’s anything that we have to do to make it more clear, I’m open to the idea.”

Rodriguez introduced C-11, a new version of the controversial Bill C-10 from the last Parliament, this month. C-10 drew a wave of controversy last spring after the government removed an exemption for user-generated content, putting social media content under the regulatory authority of the Canadian Radio-television and Telecommunications Commission.

Critics said that threatened freedom of expression, and after weeks of pushback from experts and the opposition — and then-Heritage Minister Steven Guil-

beault’s refusal to put the user-generated content exemption back into the bill — C-10 died on the order paper after the federal election was called.

Rodriguez’s new bill brings back that exemption for most user-generated content but attempts to differentiate between professional and non-professional content. Critics have said the bill is not specific enough and gives too much power to the CRTC to decide what content can be regulated.

In the House of Commons on Wednesday, Conservative heritage critic John Nater said his party — which was most critical of the last version of the bill — would bring forward “reasonable amendments” at committee. He said the wording of the bill is “so broad that the government, through the CRTC, could once again regulate wide swaths of content uploaded to social media.”

STRAIGHTFORWARD GOAL Rodriguez said in an interview the goal of the legislation is simple. “It’s to exclude users. It’s only to include the big online streamers. And that’s it. So I think it’s

Pablo Rodriguez is Canada’s heritage minister. FACEBOOK

clear; if it’s not clear enough, we’ll make it clearer.”

While the bill brings back that user-generated content exemption, it then includes an exemption to that exemption in what University of Ottawa professor Michael Geist has termed a “legislative pretzel.” The bill states any content that doesn’t earn revenue is exempt, meaning it won’t cover most of what Canadians post online.

But it will be up to the CRTC to decide what types of content that do earn revenue will be regulated, using three criteria set by the government: the degree to which it is monetized, whether it’s carried by an entity licensed by or registered with the CRTC and whether it has “unique identifier under an international standards system.”

Rodriguez said the bill is not aimed at online influencers, even successful ones, but is meant to capture music on platforms like YouTube.

“It would be mostly about the big labels.... A streamer, even if you have a million people following and you have made a lot of money, I’m really super happy for you, and I hope you succeed, but this bill is not about you.”

Geist has argued the government may have a specific use case in mind for the bill, but the way the legislation is written is much broader than that and could still capture a wide range of content, such as TikTok videos or podcasts. Former CRTC vice-chair Peter Menzies said when the bill was tabled that it’s “really troubling that they are still granting the CRTC, which is not equipped for this task, the same broad powers to define the details.”

CRTC INVOLVEMENT Critics have pointed to concerns around the CRTC’s role, including that the commission can take a long time to issue decisions — it’s taken more than a year on CBC’s broadcast licence renewals — on what some charge is an anti-consumer bent in a recent decisions, and the fact that the broadcast regulator has no experience with social media or online videos.

Rodriguez said the government will give the CRTC additional resources to do the work the government is asking for.

“We’re fully aware that they will need those supplemental resources.... They will have the capacity, the resources.”

Second-reading debate over the bill began Wednesday. Rodriguez said the aim of the bill is to update the Broadcasting Act — which hasn’t been changed for 30 years — to ensure online streamers contribute to the Canadian cultural system the same way traditional broadcasters do.

“With money leaving traditional broadcasters, day after day, to go to these platforms, this is putting our creators, our industry, our jobs and even our culture at risk. We have to act,” he said in the House of Commons.

Briefing materials prepared for Rodriguez when he became heritage minister in November say traditional broadcasters were already experiencing steady revenue losses before COVID-19, and that trend has accelerated over the pandemic.

“Without meaningful change, the Department of Canadian Heritage expects support for Canadian programming to decline by approximately a third between 2019 and 2023,” the document said.

Nater said in the House that the Conservatives are in favour of some parts of C-11 and want to see “major international companies pay their share and invest in Canadian content.”

“There is not the clear separation between professional and amateur content as envisioned by the minister in his comments on this bill,” Nater said.

“If we can remove part of that, if we can have a meaningful conversation about this at committee, I think there is much we can agree on.”

Figure:

Canada’s heritage minister says a new bill is meant to keep track of music from large companies on platforms like YouTube. REUTERS