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Law Professor Warns More Government Internet Regulations Coming

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University of Ottawa law professor Michael Geist says Bill C-11 signals that more government regulations are on their way from the Canadian Radio-Television and Telecommunications Commission (CRTC) and that they will infringe on freedom of speech.

“Bill C-11 was never just about ‘web giants,’ and the latest CRTC decision confirms that an extensive regulatory framework is in the works that is likely to cover podcasts, adult sites, news sites, and a host of other online video and audio services,” Mr. Geist wrote in a blog post on his website on Oct. 2. “CRTC clearly signals more regulation is coming. In fact, it says exactly that in the case of adult sites and social media services. This isn’t a lightweight way to avoid regulation. It is the start of a much larger Internet regulatory system,” he wrote in a post on X, formerly Twitter, on the same day.

Bill C-11, the Online Streaming Act, was passed in April. Since then, the CRTC has held a number of discussions to develop rules associated with the law.

Two decisions were announced on Sept. 29, including a requirement for streaming services that earn \$10 million or more to register with the CRTC.

It also announced that online streaming services must provide information about their content and subscribership to the CRTC. Online streaming services are also required to ensure content is not tied to a specified mobile or internet service provider.

“We are developing a modern broadcasting framework that can adapt to changing circumstances,” CEO of the CRTC Vicky Eatrdes said in a news release on Sept. 29.

Mr. Geist outlined a number of issues he sees with this latest update from the CRTC, including the government’s position on exemptions from regulations, how the rules run counter to freedom of expression rights without government interference, and how the law was expected to be focused only on web giants and platforms.

Everyone Considered Broadcasters In his blog, Mr. Geist warns that the federal government is looking to target “every-

The social media pages of the CRTC on a cellphone in a file photo.

THE CANADIAN PRESS/SEAN KILPATRICK

one” with widespread broadcast regulations.

“The government’s approach was to apply Canadian broadcast law to everyone: any audio or video service anywhere in the world, including news sites, podcasts, audiobooks and adult sites. The only question was what limits the CRTC might establish through new rules on exemptions,” he wrote, adding the government was focusing largely on those making significant revenue from their content.

“There is really just one exemption standard that matters: only those services with \$10 million or more in Canadian revenues are subject to the registration requirement.”

Just who has to register was clarified by former CRTC vice-chair Peter Menzies, who is also an Epoch Times contributor.

“If you’re Jordan Peterson ... you do not personally have to register, but whoever

carries you [does]. That would be YouTube in his case,” Mr. Menzies previously told The Epoch Times.

Mr. Geist wrote in his social media post: “The regulator is effectively saying that a podcaster or news outlet that generates a certain threshold of revenue must register with the government, a position that runs counter to freedom of expression rights without government interference.”

In a speech on Oct. 3, Vicky Eatrdes, chairperson and CEO at the CRTC, insisted that that individual users and content creators will not be regulated by Bill C-11. Ms. Eatrdes said Parliament had given the CRTC an “enormous mandate” with the passage of the bill, and called the changes needed to implement it “substantial and complex.”

She added that the CRTC had received over 600 submissions during the consultation process, “many of them long and detailed, and all of them showing that people are highly engaged.”

Minister of Canadian Heritage Pascale St-Onge said on Aug. 6 that the Broadcasting Act had not been updated since 1991 and that the new legislation was how the Liberal government was “standing up” for Canadian culture.

Mr. Geist said many Canadians likely missed the regulatory process that led the CRTC to establish the \$10 million threshold, as it “intentionally limited public participation and rejected efforts to extend the timeline for submissions,” claiming that the issue was “industry-focused and relatively narrow in scope.”

Mandatory Registration In his blog, Mr. Geist notes that the CRTC rejected requests to exclude sites that don’t fit the

traditional streaming moulds. These include individual podcasts, social media services, online news sites, adult sites, and thematic services.

He said the CRTC’s rationale for including many of those services is that without such information, it is not well positioned to regulate.

“This creates an obvious contradiction: the Commission claims that the registration requirement is de minimis requiring the disclosure of only limited information but then also argues that such information is important to future decision making on compliance with the Broadcasting Act objectives.”

Mr. Geist says the CRTC position does not make sense.

“Is the CRTC saying that it [is] unable to assess the state of podcasts, streaming thematic services, or online news without a registry? Or that it can’t find contact information without a registry? Does it not have Internet access and the ability to conduct searches? Has it conducted no analysis over the past decade on any of these issues?” He said the CRTC was trying to have it both ways by downplaying the information required, but then framing that information as essential to conduct regulatory analysis.

Mr. Menzies said the regulations were to ensure that high-quality content is being offered.

“The Broadcasting Act itself, which now applies to the streaming world ... states very clearly that the commission is obliged to ensure that the content distributed by the system ... must be of a high standard,” he said.

“And that’s a pretty subjective measure, but it’s had the CRTC, in the past, deal with issues of censorship.”

Registration of online streaming services must be done by Nov. 28, the CRTC website said.

Doug Lett contributed to this report.

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Michael Geist, law professor, University of Ottawa