



**YouTube: Brief presented to the Standing Committee on Canadian Heritage on the Online Streaming Act, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts (Bill C-11)**

**YouTube in Canada**

Since 2007, millions of Canadians have relied on YouTube's creative ecosystem to learn, be inspired and connect with the creators that they love. With 500 hours of video uploaded from around the world every minute, Canadians come to YouTube for content that responds to their diverse and unique interests and needs, from watching the latest [Charlotte Cardin](#) music video to watching [AmandaRachLee](#), a Toronto-based artist whose videos about doodling, journaling and art garnered her a loyal following on YouTube, which she has been able to leverage to launch a successful online shop selling stationery.

Canadian megastars like [Lilly Singh](#), [Justin Bieber](#), [Shawn Mendes](#), and [the Weeknd](#) all began their journey to global superstardom as individual creators on YouTube. And all of them successfully leveraged YouTube's open platform to hone their craft, grow their audience and ultimately resonate with viewers all around the world - something that many say would have been very unlikely in the closed system of conventional broadcasting.

And while not all Canadian YouTube creators are household names, their stories are no less powerful. Take Cristine Rotenberg of [Simply Nailogical](#). An Ottawa-based beauty powerhouse, with over 7 million subscribers, her nail polish line Holo Taco consistently sells out. She's also [launched a scholarship](#) at Carleton University for academic and creative pursuits.

Or former University of Guelph students and couple Mitchel Moffit and Gregory Brown, who launched [AsapSCIENCE](#) in 2012 and have grown to be one of the top learning channels on YouTube with over 10 million subscribers. They are at the colourful intersection of art, science, and pop culture where anyone can learn, participate, and use their platform to speak on environmental change, queer voices in STEM, and how science can shape cultural movements.

These diverse voices can break through because of the openness of YouTube's platform; with over 2 billion monthly logged in viewers, YouTube has helped these creators connect with viewers all around the world who have the same interests.

Today, Canadian creators are thriving. In 2020, Oxford Economics estimated that YouTube's creative ecosystem contributed [\\$923M to Canada's GDP](#), and supported the equivalent of 34,100 jobs. YouTube's own data shows that, in 2020, Canadian channels earning over \$100,000 grew by over 30% year over year.

In addition, our partnerships with traditional media companies and Canadian institutions have enabled Canadians to experience local culture of the past, present and future. Today, [Historica Canada's](#)

[channel](#) has over 28 million views, with audiences around the world learning about our history and our cultural zeitgeist. And [Encore+](#), a partnership with the Canada Media Fund, has hundreds of thousands of subscribers and tens of millions of views from within Canada and around the world of classic and culturally significant Canadian films and tv shows.

### **Online Streaming Act: Overview**

YouTube is passionate about celebrating Canadian stories and bringing them to the world. That is why we support the goals of C-11 and want to support the government in crafting legislation that will achieve these shared objectives. But we are concerned that the current text of C-11 would put at risk the livelihoods of the tens of thousands of Canadian creators on YouTube and the experience of millions of Canadians who come to the platform every day.

Because Canada is one of the world's leading democracies, nations around the world will be closely watching how it handles this issue. With Bill C-11, Canada would start the process of erecting international trade barriers to the current free exchange of cultural exports on open digital platforms that Canadian creators depend on. And the potential unintended consequences of even well-intentioned regulation here at home could be weaponized by illiberal leaders abroad as a roadmap to restrict access to information in their own countries.

We believe that three simple changes to the text of Bill C-11 can resolve these concerns, and achieve both additional support for the Canadian creative industries (particularly, music) while preserving the creator ecosystem. They are:

- 1. Narrow the language of Section 4.2 to only capture full-length, commercial music uploaded to platforms like YouTube and clearly carve the content of digital creators out of scope of the Act.**
- 2. Strengthen Section 9.1 (8) to prevent regulatory impacts to recommendation algorithms. This will allow Canadians to continue to receive their interests, not those of the government, on YouTube. Stronger language will also ensure that Canadian creators can retain access to international audiences and continue to grow.**
- 3. The broadcasting regulations in Sections 9.1 (1) and 10 (1) should be applied narrowly and better reflect differing technology and business models. Such tailoring is necessary to ensure that open platforms are not subject to provisions that are more appropriately applied to linear broadcasters.**

### **Online Streaming Act: Impacts and Recommendations**

C-11 would grant the Canadian Radio-television and Telecommunications Commission (CRTC) a wide range of powers to regulate the content on open platforms. This includes the authority to determine what content should be promoted in Canada, how that promotion should occur, what type of advertising should run against that content and with what frequency and duration. Although the Government has repeatedly stated that the Bill will not enable the CRTC to regulate user-generated content (UGC), the

Chair of the CRTC has [confirmed](#) that, in fact, “As constructed, there is a provision that would allow us to do it as required”. Not only would this imperil the Canadian creator and viewer communities, it would set global precedents that could lead to barriers to entry in international digital media markets for Canadian artists and storytellers.

Section 4.2 (1) delegates authority to the CRTC to apply regulations to UGC, subject only to a requirement to *consider* certain “matters”<sup>1</sup> in Section 4.2 (2) before doing so. The current text would enable the CRTC to apply significant conditions and regulations to **all** UGC — not just the commercial music content to which the government [has referred](#). Rather, how-to videos that incorporate background music, fan mash-ups or dance challenges, cover songs, and more could be considered in scope of 4.2(2), despite being radically different from the government’s stated intentions to regulate. As all such videos would almost certainly generate revenue (even if only indirectly), would feature music that had been broadcast on another service, and because most music has embedded International Sound Recording Codes (ISRC). Moreover, in the current text, the fact that CRTC merely has to consider matters versus matters being materially present in order to prescribe regulations means that there are no actual limitations to the content over which CRTC's may exert regulatory authority. In sum, the text of Section 4.2 (1) and (2) does not create *any* meaningful guardrails for the CRTC.

There are numerous ways to capture commercial music in the scope of Bill C-11 while leaving other forms of UGC untouched on platforms like YouTube, and we support an approach that clearly accomplishes this distinction. We propose language below to achieve this objective.

Moreover, when read in conjunction with the expansive order-making powers of Sections 9.1 (1) and 10 (1) (described below), C-11 puts the entire creative ecosystem on YouTube at risk. Specifically, it inserts the regulator between the organic connection of viewers and creators today, which could put Canadian creators at risk for international viewers, advantages large media companies over smaller, and sets harmful precedents for digital creators by applying provisions designed for linear broadcasters to open platforms.

### **Putting the Regulator between Viewers and Creators**

Canadians are in the driver’s seat when they come to YouTube. YouTube is a “lean-in,” interactive experience, where creators interact directly with engaged, passionate fans who share, comment and contribute. The personal, direct connection YouTube creators share with their fans makes them both authentic and relatable, and distinguishes YouTube from conventional broadcasters.

We seek to serve each viewer to the same high standard when recommending content. Our recommendations system is constantly evolving, learning every day from over 80 billion pieces of

---

<sup>1</sup> 4.2 (2) In making regulations under subsection (1), the Commission shall consider the following matters:  
(a) the extent to which a program, uploaded to an online undertaking that provides a social media service, directly or indirectly generates revenues;  
(b) the fact that such a program has been broadcast, in whole or in part, by a broadcasting undertaking that  
(i) is required to be carried on under a licence, or  
(ii) is required to be registered with the Commission but does not provide a social media service; and  
(c) the fact that such a program has been assigned a unique identifier under an international standards system.

information we call signals. A number of signals build on each other to help inform our system about what you find satisfying: clicks, watchtime, survey responses, sharing, likes, and dislikes. Our system then sorts through billions of videos to recommend content tailored to specific interests in a manner that respects the unique and diverse nature of every individual coming to the platform. For example, two next-door neighbours in Montreal may have very different interests and needs — one may love Bollywood content, and another may be looking to discover gourmet Quebec ‘foodies’, like [Fromager Urbain](#), a Quebecois cheese aficionado featured in YouTube’s Creator on the Rise—and our goal is to recommend videos relevant to their unique interests. Our recommendation system is built on the simple principle of helping people find the videos they want to watch and that will give them value.

Because there are no effective guardrails on the CRTC’s authority over platforms like YouTube, Section 9.1 (1) (e) opens the door to regulation on how any or all content appears on the platform when Canadians come to YouTube. This could include the home page and “Up Next” feed, where our system recommends content to users based on signals like what videos they’ve watched and time of day. This authority includes, but is not limited to, mandating the showcasing of Canadian and original French language programs. In sum, the CRTC — and not our Canadian users — would have authority over how content is discovered on YouTube.

Canadian viewers rightfully expect that their interests, not those of the government, will be at the centre of the equation on YouTube. By applying discoverability provisions to all content on YouTube or otherwise authorizing regulation of how videos are presented to users, this legislation risks eroding users’ trust in both the regulator and in YouTube.

### **Putting International Audiences and Revenue at Risk for Canadian Creators**

YouTube is deeply concerned that pushing or promoting content on the basis of its ‘Canadianness’ to viewers would likely backfire for Canadian creators who rely on international audiences for over 90% of their watchtime.

Canadians have an almost infinite choice of content on YouTube, and as explained above, our systems use a variety of signals to recommend videos in which users will find value across a global corpus of content, without discriminating based on a creator’s country of upload. Without a clear indication that a user seeks content from creators associated with a particular nationality—e.g., a search query for “Canadian travel vlogger”—then promotions on the basis of a creator’s nationality is not likely to be a good fit for the viewer. And getting that ‘fit’ right is important, because viewer patterns impact the platform’s recommendations to them. If the content presented to viewers is not based on their individual interests or information-seeking needs, but rather a set of criteria or priorities established by the CRTC, it increases the chances that viewers ignore that content or indicate that they don’t like it via the dislike button or a negative response in a video-level satisfaction survey.

If videos have low click through rates, or higher levels of ‘abandonment’—when viewers stop watching before the end or use the “dislike” button—those signals have an impact across the global recommendations system. It teaches our systems that the content is not relevant or high quality, which will have knock-on effects that harm global recommendations, international watchtime, and ultimately, a creator’s earnings. It means that creators artificially promoted by the regulator in Canada could be

demoted in search results around the globe. This, in turn, would have the effect of demoting precisely the type of content the CRTC is hoping to highlight.

Moreover, C-11 would set a harmful global precedent. No other democratic country currently applies local content promotion requirements to open platforms. If Canada sets this precedent, other countries with much larger markets may impose similar restrictions that disadvantage access for Canadian creators. And illiberal countries could point to Canada's example to justify laws that try to restrict the flow of information to their own populations. Canada would start the process of erecting international trade barriers to the current free exchange of cultural exports on open digital platforms. That would be detrimental to Canadian creators; according to [Oxford Economics](#), 79% of creators agreed that access to an audience outside of Canada is essential for their channel to be sustainable<sup>2</sup>.

### **Giving an Advantage to Large Canadian Media Companies over Digital Creators**

Right now, digital creators compete on a level playing field on YouTube. But a regulatory requirement for certain programs to be promoted or 'showcased' on the basis of criteria defined by the CRTC, such as its eligibility as Canadian content, would effectively pick winners and losers between content creators. Some would be eligible, and some would be excluded. Some would get top billing, and others would not.

Today, YouTube's recommendations systems do not discriminate on the basis of whether content is monetized or not, what geography it was uploaded from, or if creators have enough subscribers to be in the YouTube Partner Program. Rather, as described above, our systems seek to provide content that is most relevant to the individual viewer in a given moment. Audiences determine how content performs when creativity breaks through and content resonates with viewers.

The CRTC's [Canadian Program Certification](#) regime, which establishes the numerous criteria that must be met for each piece of content to be qualified as 'CanCon', is complex and ill-suited for digital content creators. Applying such a regime, or something similar, to Canadian creators on open platforms would give a distinct advantage to large, well-resourced media companies that have the necessary teams and experience to navigate the system. It would impose a resource-intensive requirement on small creators to demonstrate to platforms and the regulator that their content meets eligibility requirements and would bureaucratize the creative process, hurting the upward mobility of new, diverse and innovative creators.

### **Carefully Scoping the Bill to Address Commercial Music**

We believe it's possible to support Canadian musicians, artists and storytellers without putting the livelihoods of thousands of Canadian creators at risk. At YouTube, we will continue to support the Canadian creator economy and the Canadian music industry. Our partnerships with major and independent record labels across Canada continue to pay off - record label earnings from YouTube on content with Canadian ISRC numbers grew by more than 35% year over year from 2020 to 2021. On the

---

<sup>2</sup> From Opportunity to Impact: Assessing the Economic, Societal and Cultural Impact of YouTube in Canada, Oxford Economics, June 2021

music publishing side, our payments to SOCAN increased by more than 50% during the same time frame.

We believe that if an official music video is regulated on television, it is not inappropriate to regulate it on YouTube. The bill's current text does not differentiate, however, between commercial music content and true user-generated fan content, nor does it adequately protect the recommendation algorithms fundamental to the Canadian music industry's growth on our platform and exposure to international audiences: in 2021, more than 85% of record label earnings from YouTube on content with Canadian ISRCs came from international audiences.

As we provide below, there are multiple ways to capture commercial music in the scope of C-11 for discoverability purposes, while leaving the organic, fan content experience untouched on platforms like YouTube. By making clear that in-scope content is that which is provided to a platform by the sound recording's copyright owner (or its agent), platforms can operationalize and identify which songs are covered by the regulation and which are not. At YouTube, our partnerships with thousands of record labels, music publishers and collecting societies around the world enable us to distinguish between the content they are providing to YouTube, and the fan content they monetize through our leading copyright management tool, Content ID.

Our proposed amendments would codify what the government has always said - that it does not intend to regulate user generated content nor disrupt the positive experiences of users who come to our open platform, but that the commercial music content that may appear on those platforms remains in scope for applicable provisions.

### **Suggested Amendments:**

#### **Amend Section 9.1 (8)**

9.1 (8) The Commission shall not make an order under ~~paragraph (1)(e)~~[this Act](#) that would require [changes to .or](#) the use of, a specific computer algorithm or source code.

#### **Amend clause 4.2 (1) and strike 4.2 (2)**

4.2 (1) For the purposes of paragraph 4.1(2)(b), the Commission may make regulations ~~prescribing programs~~ in respect of ~~which this Act applies.~~ [sound recordings in which:](#)

(a) [the uploader of the program is the owner, or the exclusive licensee or agent of the owner, of the copyright in the sound recording;](#)

(b) [the program has been broadcast in whole by a broadcasting undertaking that](#)

(i) [is required to be carried on under a licence, or](#)

(ii) [is required to be registered with the Commission but does not provide a social media service; and](#)

(c) [the sound recording is assigned a unique identifier under an international standards system.](#)

### **Appropriately Targeting Broadcasting Rules**

Bill C-11 goes farther than C-10 and applies several new provisions to open platforms that are designed for conventional broadcasters. YouTube believes that doing so would have harmful unintended consequences.

In many respects, the application of these broadcasting provisions would set negative global precedents, and could be implemented in unforeseen manners in jurisdictions without the same democratic norms and freedoms that Canada enjoys. Specifically, Section 9.1 (1)(i)<sup>3</sup> establishes a ‘must carry’ provision for all online undertakings, including open platforms. No other democratic government has adopted such a provision for open platforms.

Additionally, 9.1 (1)(l)<sup>4</sup> permits the regulator to order open platforms to carry emergency messages. However, on-demand services do not have the technical capability to effectively distribute emergency messages. Unlike conventional broadcasters, on-demand services are not differentiated by province or region and are not tethered to any particular telecommunications network. On-demand services do not own or operate the telecommunications networks on which they sit and therefore lack the requisite control to guarantee transmission of a signal.

Notably, under Section 10 (1) (d)<sup>5</sup>, the regulator would have the authority to determine the amount of time and character of advertising on platforms like YouTube. YouTube’s advertising business, bolstered by its robust brand safety standards, is central to our YouTube Partner Program, which allows YouTube creators to participate in advertising revenues. The majority of advertising revenue generated by a creator in the YouTube Partner Program goes to the creator. Enabling the CRTC to have jurisdiction over advertising in the manner contemplated by the bill would have a direct, immediate effect on these creators’ livelihoods.

In terms of technology and content, open platforms differ from those of conventional broadcasters, and provisions like this in the Bill should recognize these important distinctions.

**Recommendation: Return to the approach of C-10 and narrow application of broadcasting regulations in Sections 9.1 and 10 (1) to better reflect the differing technology, business models and content of open platforms from those of conventional linear broadcasters.**

### **Suggested Amendments:**

#### **Add to Section 9.1 (3)**

9 (3) (ii) Orders made under this section, other than orders made under paragraph (1) (e) or (o), do not apply in respect to an online undertaking that does not own or exclusively license programs.

#### **Amend Section 10 (2)**

10(2)Application

~~A regulation made under subsection (1) may be made applicable to all persons carrying on broadcasting undertakings or to all persons carrying on broadcasting undertakings of any class established by the Commission in the regulation.~~

Orders made under this section, other than orders made under paragraph (1) (i) or (j), do not apply in

---

<sup>3</sup> 9.1 (1) (i) a requirement, without terms or conditions, for a person carrying on an online undertaking to carry programming services, specified by the Commission, that are provided by a broadcasting undertaking.

<sup>4</sup> 9.1 (1)(l) carriage of emergency messages.

<sup>5</sup> (d) respecting the character of advertising and the amount of broadcasting time that may be devoted to advertising.

respect of an online undertaking that does not own or exclusively license programs.

### **Alternative Approach**

Lastly as yet another alternative, an amendment could address both of the above issues related to application of broadcasting provisions and content in scope:

#### **Amend section 4.1 (3) and strike 4.2**

4.1(3) This Act does not apply in respect of online undertakings whose broadcasting consists ~~only of programs in respect of which this Act does not apply under this section.~~ of programs that are uploaded to an online undertaking that provides a social media service by a user of the service that is not the provider of the service or the provider's affiliate, or the agent or mandatary of either of them, except (I) with respect to orders made under Section 11.1 and

(II) for orders made under paragraph 9.1(1)(e), 10(1) (i) and (j) for programs where

- (a) the uploader of the program is the owner, or the exclusive licensee or agent of the owner, of the copyright in the sound recording;
- (b) the program has been broadcast in whole by a broadcasting undertaking that
  - (i) is required to be carried on under a licence, or
  - (ii) is required to be registered with the Commission but does not provide a social media service; and
- (c) the sound recording is assigned a unique identifier under an international standards system.

### **Conclusion**

Ensuring that Canadians can find, enjoy, and create quality Canadian content is a priority for YouTube. We are not opposed to regulation, and we will continue to do our part to support the Canadian creator economy and to partner further with Canada's music industry. Our proposed amendments would enshrine this commitment in legislation.

Supporting Canadian musicians and storytellers does not have to come at the expense of protecting the thousands of Canadian creators who earn a living on digital platforms. We know that more precision in the Bill can accomplish both objectives, while preserving the vibrant and authentic ecosystem that Canadian creators and viewers enjoy on YouTube today.

We urge members of the Standing Committee on Canadian Heritage to amend C-11 and to adopt specific language to ensure open platforms are not regulated like conventional broadcasters, to strengthen limits on the CRTC's authority to mandate changes to algorithms, and to narrow provisions on scope to explicitly capture commercial music content and exclude other forms of UGC from CRTC regulation.



## **About YouTube**

Launched in May 2005, YouTube allows billions of people to discover, watch, and share originally-created videos. YouTube's mission is to give everyone a voice and show them the world. YouTube provides a forum for people to connect, inform, and inspire others across the globe.

According to Oxford Economics, YouTube's creative ecosystem in Canada contributed the equivalent of \$923 million to Canada's GDP in 2020. This includes direct impact including revenue paid by YouTube to media companies, the music industry, and creative entrepreneurs. It also includes the indirect impact on Canadian businesses like sound and film production, film editing, and equipment.