

Feds being asked to release consultation results for regulating speech online

Written By **Sam Odrowski**

A joint letter calling on the federal government to publicly release all submissions to the Department of Canadian Heritage during its recent consultation on regulating harmful content online, has been issued by 16 civil society groups and experts.

Dufferin-Caledon MP Kyle Seeback has joined the chorus of those speaking out against the opaque consultation process and the government's new approach for regulating what Canadians are allowed to post online.

The consultation's white paper proposes stiff new obligations for how online platforms handle user posts that could be considered hurtful or harmful. Platforms would have to proactively identify potentially violating posts and remove them within 24 hours, as well as report them to law enforcement, if the legislation moves forward. Companies who do not comply within 24 hours could face fines up to \$10 million or three per cent of the company's gross global revenue, whichever is higher. For Facebook, they'd be fined \$2.6 billion per post.

The proposed legislation has been widely criticized as overly aggressive and would lead to the removal of much legal speech beyond the targeted content.

‘The changes are going to deal with regulating content that is ‘harmful’ or ‘hurtful’, and we don’t know what the definition of that is, or how that’s going to be applied, or who exactly is going to apply that standard to determine what things on the internet are harmful or hurtful,’ Seeback remarked. ‘Without having a really clear understanding of that, you can see how this could be massively over broadly applied to severely restrict Canadian’s freedom of expression online.’

Big tech companies fear of the fines, could also lead to over-censoring of Canadians posts, according to Seeback,

Canada's Heritage Minister recently changed from Steven Guilbeault, who spearheaded Bill C-10, to Pablo Rodríguez, who's now leading the charge to push through the legislation that would regulate Canadian's speech online.

Seeback said he's urging Rodriguez not to proceed as Guilbeault did with Bill C-10 in the past, which aimed to regulate Canadians social media but ultimately failed. Adding, the consultation process must be transparent.

The Canadian Department of Heritage in a statement to the Citizen, said the consultation process wasn't released as it may contain confidential business information.

Seeback said this response is ‘deeply troubling’ as any confidential information could easily be withheld, as it's standard practice for consultations.

All of the internal mechanisms needed to provide the submissions without disclosing personal or sensitive information already exist, according to Mat Hatfield, Campaigns Director for Open Media Canada, who was one of 16 signees of the joint letter requesting the government release the consultation. The federal government will release the consultation results if they're forced to do so, through the Access To Information and Privacy system (ATIP), he added.

‘But instead of proactively doing this of their own volition, knowing full well there are numerous interested parties that would support this move, they've chosen to force numerous organizations and individuals to all file unique requests through a notoriously slow and challenging system, just to delay the inevitable,’ said Hatfield.

‘Even the government's national security consultation was able to disclose the submissions proactively without forcing everyone to go through the ATIP system, using their existing guidelines to redact any sensitive information before disclosing. If they were in any

way committed to transparency, they would do this proactively themselves.?

Hatfield noted that over 9,000 submissions were made by those invited to do so through Open Media Canada, and there's thousands of other Canadians that sent in their comments, with the majority opposing the government's approach.

?To our knowledge, the consultations that we know of have been overwhelmingly negative and critical of what the government is doing, and that includes submissions from people who don't want to see major new regulations of the Internet in Canada and people who do very much want to see new regulations on the internet in Canada, but think that this approach is very wrongheaded and quite dangerous,? Hatfield explained.

?It's been heartening for us to see that a lot of people have had very serious concerns that they think need to be addressed before this moves forward.?

The main concern with not going public with the consultation results is that it puts no pressure on the federal government to respond to any criticism they're receiving with respect to their proposal on regulating harmful content online.

?I think they are hoping that people will just forget about the consultation, and they can continue to do whatever they want, which is very dangerous for our internet,? said Hatfield.

One of the main concerns for Seeback with respect to the proposal, is the size of the bureaucracy needed to sift through all Canadians posts and determine if they should be removed.

?It's quite mind boggling and staggering,? he said. ?If you look at Facebook, which is a multibillion-dollar company, the amount of money they have spent on content moderation and not been successful ? you'd have to have the Government of Canada having an even larger groups dealing with this.?

Seeback also raised concerns about who would have the authority to determine Canadians posts are harmful/hurtful and must be removed within the 24-hour timeline. Adding, laws already exist that deal with Canadians who post illegal content on the internet.

?I think all of this should really send chills down the spines of Canadians,? he remarked. ?It is 100 per cent overkill.?

Going forward, Seeback said he will ?aggressively and vigorously oppose this legislation? if it moves forward as a bill in Parliament.

Hatfield noted that the public has a role to play in combating the federal government's heavy-handed approach to regulating Canadians' posts online. This can be done by sending letters to their Member of Parliament and Canadian Heritage Department, as well as encouraging others to do the same.

?It's really important that people make themselves heard. Any legislation that touches on our online speech, is really amongst the most sensitive things that our government could ever do. There's no way it should be going through with minimal scrutiny or sort of public input and debates,? he said.

?We [at Open Media] are going to be working really closely with other groups to make sure that if they're actually moving forward with it in the way its describes, that it is contested at every step of the way, and certainly that it won't get rushed through in the way they tried to rush through Bill C-10 before the summer.?