



29 January 2024

Mr. Heath MacDonald  
Chair  
Standing Committee on Public Safety and National Security  
House of Commons  
Ottawa, Ontario, Canada  
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CC: Committee Vice Chairs Doug Shipley, Kristina Michaud, and MP Peter Julian

**Subject: Concerns about Bill S-210**

Dear Mr. MacDonald,

We, the undersigned civil society organisations, individuals, technology and legal experts are writing to express our strong concerns regarding Bill S-210, “*An Act to restrict young persons’ online access to sexually explicit material.*” We appreciate the desire to protect children by reducing their exposure to age-inappropriate sexual material on the Internet. Regrettably, as currently written, S-210 does not strike an appropriate balance between that goal and Canadians’ fundamental rights to privacy, freedom of expression, security of the person, and access to information. In this letter, we outline some of the most egregious aspects of the Bill.

**Privacy Risks and Age Verification:**

Information about our intimate interests and identities is amongst the most sensitive personal data that exists. While *Section 11(2)* of S-210 attempts to provide some guidelines for protecting this data, we are concerned that S-210 does not clearly rule out or protect against the use of risky, privacy-violating online ID verification methods, including the presentation of government ID, analysing a user’s social networks to estimate identity, or live facial recognition technology. If implemented without stringent safeguards, each of these technologies could lead to unwarranted surveillance, profiling, and the creation of dangerously vulnerable databases. We caution that Bill C-27 (including Part 3) also does not provide the necessary safeguards.

**Overly Broad Scope:**

*Section 5* of Bill S-210 lacks a specific requirement of an intention by an ISP to make adult content available on a commercial basis, thus raising significant concerns about how much of the Internet the Bill would put behind an age gate. Much of the Internet earns commercial revenue, whether directly or indirectly, and many services permit user uploads and user content. Yet *Section 5* is so broadly written that it would affect not only user content hubs like Reddit and file-sharing services, but even basic Internet functions like search engines and Internet Access Providers.



*Section 9(5)* creates additional risks about over-capture and does not represent a proportionate approach to reducing young people's ease of access to adult material, without undue impact on other content or users.

Absent both clear thresholds and intentional distribution provisions that limit the scope of affected services, mainstream Internet services are likely to adopt verification measures that undermine Internet security and safety, exclude many users, and use automated tools that over-moderate content for all users, including removing artistic, health, and educational material which Bill S-210 acknowledges should be freely accessible to all.

**Website Blocking as a Remedy:**

The coercive remedy for compliance provided by *Section 9(1)* — website blocking — raises additional concerns. Website blocking is an imprecise tool that often captures far more content and sites than explicitly targeted. As such, it should be only permitted in narrow, necessary and clearly defined circumstances.

Under *Section 9(5)*, the Federal Court must determine that the order is “necessary to ensure that the sexually explicit material is not made available to young persons on the Internet in Canada”. If these order-making powers are retained, this safeguard must at minimum be strengthened by explicitly requiring the order to be issued only where the interest in preventing access by young persons clearly overrides the freedom of expression rights and impact of other users, with consideration for what other services may be affected.

Due to the critical concerns we have highlighted above, we believe Bill S-210 cannot be allowed to pass into law in its current form.

We thank you for your consideration and would welcome the opportunity to discuss our concerns and a path forward with you in further detail.

Sincerely,

Organisational Signatories

OpenMedia

Action Canada for Sexual Health and Rights

BC Civil Liberties Association

BC Coalition of Experiential Communities

Centre for Law and Democracy

Erotic Service Providers Legal Education and Research Project (ESPLERP)

Ligue des droits et libertés

Privacy & Access Council of Canada

*OpenMedia is a community-based organisation that works to  
keep the Internet open, affordable, and surveillance free.*



Individual Signatories

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