



# ETHI COMMITTEE REPORT

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Committee Report

Government Response

Reports (ETHI)

Mr. Bob Zimmer, M.P.

Chair

Standing Committee on Access to Information, Privacy and Ethics

House of Commons

Ottawa, Ontario K1A 0A6

Dear Colleague:

Pursuant to Standing Order 109 of the House of Commons, we are pleased to respond on behalf of the Government of Canada to the Seventeenth Report of the Standing Committee on Access to Information, Privacy and Ethics, entitled *Democracy Under Threat: Risks And Solutions In The Era of Disinformation and Data Monopoly*.

The Government of Canada extends its gratitude to the members of the Committee for their contribution to this timely issue. The Government would also like to express its appreciation to the many witnesses who appeared before the Committee. The information and views expressed over the course of this study have provided valuable insights as the Government remains committed to safeguarding our democracy in an environment of new and emerging threats.

Canada's electoral system is strong. At the same time, we recognize that we are not immune to the threats facing democracies and electoral processes around the world. As technology expands and evolves, we must keep in mind how these same technologies are being used to alter the conversation, and impact democratic discourse and civic participation. As we have seen in just a few short years, disinformation is now a global issue. Canada has been watching and learning from the experience of other countries, undertaking research, and determining an approach that will work in a Canadian context to defend our democracy and our democratic institutions.

our democratic institutions.

On January 30, 2019, the Government announced its plan to safeguard Canada's next federal election against cyber threats and foreign interference. The plan is centred on combatting foreign interference, enhancing citizen preparedness, improving organizational readiness, and expecting social media platforms to act. The Government has announced a series of actions that will further strengthen our electoral system. The Government is confident that its comprehensive plan will allow for a free, fair and secure 2019 election.

The Government also welcomes the Committee's recommendations on Canada's marketplace frameworks for privacy and competition, which build upon the Committee's previous study of the *Personal Information Protection and Electronic Documents Act* (PIPEDA). While the Act, and other marketplace frameworks such as the *Competition Act*, continues to provide important protections, important questions remain about how to ensure these frameworks have the appropriate scope and approach to maintain Canadians' trust in an increasingly data-driven world. As noted in our response to the Committee's study of PIPEDA, we share the view that it is necessary to modernize our privacy regime to ensure it provides clear, enforceable rules and supports the level of privacy protection that Canadians expect. The Committee's most recent recommendations in this regard are a valuable contribution to the Government's ongoing privacy modernization efforts.

Please find below the Government of Canada's detailed response to the Committee's report, grouped under the themes of Increasing Transparency in the Electoral Regime; Protecting Canada's Democracy; and Trust in the Digital Marketplace.

### Increasing Transparency in the Electoral Regime

#### *Privacy and Political Parties*

*(Recommendations 1, 2, 3, and 26)*

The Government recognizes that the operating environment for political parties has changed significantly in recent times. With the rise of social media, it is easier than ever to reach voters and to gather a wide range of personal information on the electorate. Given this, and the important role political parties play within Canada's democracy in educating and mobilizing the electorate, they are vulnerable to threats and attacks from malicious actors, which, if successful, could significantly undermine the public's trust and damage our democratic institutions and processes.

To help ensure that political parties do their part to protect Canadians' personal information, measures were introduced in Bill C-76, the *Elections Modernization Act*, which received Royal Assent on December 13, 2018. Political parties will be required to have a publicly available, easily understandable policy for the protection of personal information. Political parties will also be required to submit their privacy policy as part of their application for registration with Elections Canada and will have to maintain it to keep their registered status. These measures will serve as an important first step to ensuring greater transparency about the ways political parties collect, secure and use data. The Committee's recommendations will inform the Government as it continues to reflect on the extension of Canada's privacy protection frameworks to political parties.

### *Transparency in Political Advertising*

#### *(Recommendations 6, 7 and 19)*

The Government agrees with the Committee that a high-level of transparency is required in political advertising. In support of this, the Government has introduced measures through Bill C-76 that strengthen the regulation of third parties participating in our electoral processes. This includes a broadening of the scope of third parties' regulated activities. While they were previously only subject to rules with regard to their election advertising expenses, third parties will now have their partisan advertising, partisan activities and election survey expenses subject to spending limits. Furthermore, political parties and third parties are required to use identifying taglines on all partisan advertising during the election period, and, following the passage of Bill C-76, the pre-election period as well. Political parties and third parties must also publicly report on their expenses to Elections Canada.

In addition, online platforms or applications that sell advertising space on a commercial basis will now be required to show more transparency. Bill C-76 will require these entities to make accessible online a registry of political ads published during the pre-election and election periods. The registry must include a copy of the message the ad contained, the name of who authorized the ad, and each entity must keep that information for five years. These provisions will be subject to the enforcement powers of the Commissioner of Canada Elections, including his ability to launch an investigation and the power to seek a court order to compel testimony. Canada is one of the first countries to implement such disclosure requirements, which, together with the measures outlined above, will ensure greater transparency and provide Canadians with more information with respect to who is trying to influence their vote.

### *Use of Foreign Funds in Canada's Elections*

#### *(Recommendation 5)*

The Government agrees with the Committee that foreign funds should not be used to influence Canadian elections. Following the passage of the *Elections Modernization Act*, foreign entities will no longer be able to spend any money to influence federal elections and third-party organizations will be prohibited from using foreign funds for their partisan activities and advertising irrespective of when it is taking place. Persons and entities that sell advertising space, such as broadcasters, newspapers and online platforms, will be prohibited from knowingly selling such advertising space to foreign entities for the purposes of election advertising. Additionally, all registered third parties will be required to have a Canadian bank account.

While the *Canada Elections Act* has long prohibited foreigners from contributing to political parties and candidates, the Government has further strengthened Canada's political fundraising regime through Bill C-50, *An Act to amend the Canada Elections Act (political financing)*. This bill, which came into force on December 21, 2018, will strengthen the advertising and reporting regime of fundraising events attended by Ministers, party leaders or leadership contestants.

### Protecting Canada's Democracy

### *Online Platforms in the Era of Disinformation*

#### *(Recommendations 8 and 10)*

The Government shares the Committee's concerns over the spread of disinformation on online platforms and the inappropriate uses of personal data that are often involved in such practices. Online platforms provide important spaces where Canadians can come together and participate in democratic processes or engage in democratic debate. These platforms, however, have a responsibility to make sure they do not become tools for malicious actors interfering in democratic processes. Online platforms have begun to show some willingness to work with lawmakers and have started taking steps to prevent misuse of their services. However, these are only first steps, more needs to be done. It is incumbent upon these companies to understand the societal responsibilities that accompany the creation and operation of these platforms. The Government will continue to engage with online platforms and to monitor their behaviour. The Government is expecting greater action and specific measures to increase transparency, authenticity, integrity, and to combat the spread of disinformation.

### *Cyber Security*

#### *(Recommendations 14 and 15)*

The Government supports the Committee's recommendations related to cyber security and cyber threats. A whole-of-government approach is underway to protect the integrity of Canada's democracy by strengthening our electoral process against malicious cyber activities and interference. Following the release of the 2017 public report from the Communications Security Establishment (CSE) entitled *Cyber Threats to Canada's Democratic Process*, CSE provided a briefing to political parties and offered to provide further guidance and advice on cyber security matters. In advance of the 2019 General Election, CSE will continue to offer additional cyber technical advice, guidance and services to political parties and election administrators to help them better protect their own cyber systems. Regular classified briefings will also be extended to key security-cleared members of national political campaigns to help build awareness of the nature of cyber threats in Canada. While we cannot

force political parties to accept CSE's services or implement any its recommendations, we continue to encourage all parties to take the steps necessary to bolster their cyber security practices.

The Government is also introducing a number of other measures to address cyber and other emerging threats. The Government has established the G7 Rapid Response Mechanism to strengthen coordination among G7 democracies in responding to threats to democracy. The Government will also leverage the *Get Cyber Safe* public awareness campaign to educate Canadians about Internet security and the simple steps they can take to protect themselves online. The Government has also established the Security and Intelligence Threats to Elections Task Force, bringing together expertise from the Canadian Security Intelligence Service, CSE, the Royal Canadian Mounted Police (RCMP), and Global Affairs Canada, to serve as a focal team for identifying and responding to threats. Lastly, the RCMP is also establishing the Foreign Actor Interference Investigative Team dedicated to investigating and disrupting

the emergency response investigation team focused on investigating and disrupting criminal acts that may be part of an effort to interfere with Canada's electoral process, and continuing proactive prevention and outreach activities.

Furthermore, the Government is implementing a Critical Election Incident Public Protocol, which is a clear and non-partisan process for informing Canadians if serious incidents threaten the integrity of the 2019 General Election. It would be used to respond to egregious incidents that meet a high threshold, occurring during the writ period, and that do not fall within Elections Canada's areas of responsibility for the effective administration of the election.

Together, these measures will work to strengthen the resilience of our institutions and citizens as we move towards the 2019 General Election.

### *Digital Literacy and Research*

*(Recommendations 16, 17, 18)*

The Government agrees with the Committee and recognizes the importance of digital literacy and research as important tools to counter threats to our democratic institutions and processes. A healthy, robust democracy depends on an engaged and informed electorate.

Amongst the measures announced by the Minister of Democratic Institutions on January 30, 2019 is the creation of the *Digital Citizen Initiative*, which will invest \$7M in citizen-focused activities to build citizen resilience against online disinformation and building partnerships to support a healthy information ecosystem. The Government will support activities such as skills development, awareness sessions, workshops and learning materials for Canadians. These

activities will help citizens to critically assess online reporting and editorials, recognize how and when malicious actors exploit online platforms, and acquire skills on how to avoid being susceptible to online manipulation.

Disinformation campaigns cannot only distort the public's understanding of major issues, but also erode its faith in traditional media, which is grappling with industry changes in the digital age. The Government recognizes that a strong and independent news media is essential to a well-functioning democracy – they not only hold governments accountable to its citizens, they convey the stories and issues important to the public on a daily basis. To help protect this vital role, as announced in the *2018 Fall Economic Statement*, the Government will also be introducing a number of measures to help support journalism in Canada. These measures will ensure that Canadians continue to have access to informed and reliable news in the era of disinformation.

### Trust in the Digital Marketplace

#### *Enhancing Marketplace Frameworks*

*(Recommendations 9, 10, 11, 12, 13, 20, and 21)*

As noted in the response to the Committee's 2018 study of PIPEDA, the Government agrees that the time has come to reevaluate and modernize Canada's privacy protection framework

for private sector organizations. In this spirit, the Government welcomes the Committee's additional recommendations on PIPEDA in this report. While technological advancements and the digital transformation of our economy are in many ways enriching our society and opening the door for significant economic and social opportunities, this transformation brings with it challenges and uncertainty that Canada must be prepared to address. There are very real concerns about trust and security. High profile data breaches and misuses of personal information have raised questions and public concern around how data is collected, used and protected.

The Government is examining all options to ensure that PIPEDA maintains its intended balance between the individual right to privacy and businesses' legitimate needs to collect, use, and disclose information. Any legislative changes will ensure that the Act continues to provide meaningful protections for privacy, while also supporting innovation, growth, and the free flow of data in international trade and commerce. PIPEDA updates must also recognize emerging privacy norms, particularly internationally, and work coherently with other marketplace frameworks, such as competition law. These issues are complex, and the Government remains committed to moving forward with its work with stakeholders and meaningful dialogue with Canadians.

The Government's *National Digital and Data Consultations* in 2018 were an important step in this regard. The results of the consultations have underscored the importance of privacy and trust to Canadians in a marketplace that is increasingly driven by data and disruptive technologies. Many of the issues the Committee has highlighted in its reports were also raised by stakeholders and citizens during the consultations. It is clear that Canadians expect greater transparency and control over the use of their personal information. In addition, there is growing interest in emerging concepts such as data portability, increased transparency, and the applicability of new data governance frameworks, including data trusts. The Government will continue to engage stakeholders and Canadians with a view to bringing forward future options to address these issues.

#### *Enforcing Marketplace Frameworks*

*(Recommendations 4, 22, 23, 24 and 25)*

The Government has committed to examining all options for enhancing the enforcement model in PIPEDA with a view to ensuring that organizations are truly accountable for the protection of personal information.

An effective enforcement framework will both facilitate ease of compliance by regulated organizations, and will allow for meaningful appropriate enforcement measures, in line with the fundamental principles of justice, to better uphold citizens' confidence and trust. That is why Government is working to ensure that any changes to the Act result in clear, enforceable rules, and recognize the continued need for the Office of the Privacy Commissioner's advocacy activities and its dialogue with businesses.

In light of growing concerns about the potential for imbalance in market power in the digital economy, the Government also recognizes the need to ensure coherence between Canada's data protection frameworks, in particular privacy and competition law. The Competition Bureau is increasing its advocacy and enforcement work around innovative and disruptive

Bureau is increasing its advocacy and enforcement work around innovative and disruptive technologies under the current framework. As part of its work on the enforcement regime in PIPEDA, the Government will assess the need for additional measures to allow for collaboration and cooperation between the Office of the Privacy Commissioner and the Competition Bureau.

### Moving Forward

The Government of Canada is committed to protecting the integrity and the trust that Canadians hold in their democratic institutions and processes. The Government, parliamentarians, election administrators, political parties, and our national security agencies are aware of the emerging risks and measures being taken to mitigate such vulnerabilities. A whole-of-government approach has been taken to prepare for and respond to threats as we approach the 2019 General Election and ensure the continued resilience of Canada's democracy.

The Government is also committed to ensuring that our marketplace frameworks support innovation and uphold Canadians' confidence in the digital economy. The Committee's study and its recommendations will inform the Government as it undertakes further consideration and discussion on these important issues.

Once again, we would like to thank the Committee on behalf of the Government of Canada for its thoughtful analysis, as well as the witnesses and Committee staff who support this important work.

Yours sincerely,

The Honourable Karina Gould, P.C., M.P.

Minister of Democratic Institutions

The Honourable Navdeep Bains, P.C., M.P.

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