

**The Right Honourable Mark Carney, Prime Minister of Canada**

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June 9, 2025

**Re. Reform of the *Access to Information Act***

Dear Prime Minister,

We, the undersigned organisations and individuals, are writing to you to urge you to conduct a genuine and timely review of the *Access to Information Act* (ATIA).

The ATIA requires the government to conduct a review every five years, with the next review due to commence on Wednesday, 18 June 2025. We are of the view that the last review, which led to a report to Parliament in late 2022, suffered from serious structural flaws. A key problem with that review was that it was led by the Treasury Board of Canada Secretariat (TBS), which represents a fundamental conflict of interest, given that TBS is itself governed by the ATIA.

We are calling for the upcoming review to be conducted in a fundamentally different manner, namely under the guidance of an independent panel with a broad mandate to consider all reform needs and with sufficient resources to conduct robust consultations with Canadian stakeholders. Anything less than such an independent, comprehensive, consultative review would not only represent a waste of valuable public resources, but it would inevitably further erode public trust in the ATIA system.

The ATIA was designed to ensure government transparency and accountability, but it is now recognised by all independent stakeholders no longer to be fit for purpose. The respected RTI Rating assesses the ATIA as earning only 93 points out of a possible 150, and to rank in 53<sup>rd</sup> position from among the 140 countries globally which have access to information laws, a dismal standing for a respected democracy like Canada.<sup>1</sup> The transparency which the ATIA should deliver is, among other things, undermined by its limited scope, excessive delays, an unreasonably broad regime of exceptions, and bureaucratic resistance.

We also call on your government to commit, following the review, to amend the ATIA law in line with the broad thrust of the panel's recommendations and to introduce, again in line with

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<sup>1</sup> Global Right to Information Rating, "By Country" (accessed on 1 June 2025), online at: <https://www.rti-rating.org/country-data/>.

the broad thrust of the panel's recommendations, such practice changes as are necessary to ensure that the ATIA actually delivers on its promise of transparency. Time after time, Canadian governments have committed to introducing serious reforms on access to information while ending up only making minor changes. That should not happen again.

To support this call, we are appending, in Annex 1, a broad draft Terms of Reference to guide the review. While you may want to tweak the specific language of the draft Terms of Reference, we believe that the core principles it reflects should be preserved in the final version.

Transparency is the foundation of public trust. Not only is public trust in government at an all-time low, in Canada as in many countries, but never in its history has such trust been more important for Canada, as the country faces very serious economic challenges and the need to engage in deep financial and business environment reforms.

During the election, you promised a review of the ATIA stating: "An objective review of [the Act] would serve Canadians well". We salute that sentiment and note, given that it is subject to the Act, that TBS cannot deliver such an objective review. The time to conduct this review is now, as part of the obligation under the Act to undertake a five-year review.

We urge you to move with dispatch to put in place a review which is in line with what we are asking. History will remember you kindly for it.

Signatories:

#### Organisations

B'nai Brith Canada  
Centre for Free Expression  
Centre for Law and Democracy  
Ecology Action Centre  
Ontario Council of Hospital Unions-CUPE  
OpenMedia  
Tech Reset Canada  
World Press Freedom Canada

#### Individuals

Duff Conacher, Co-founder, Democracy Watch  
Michael Karanicolas, Associate Professor of Law and James S. Palmer Chair in Public Policy & Law, Dalhousie University  
Matt Malone, Assistant Professor, University of Ottawa Faculty of Law  
Alex Neve, Senior Fellow, Graduate School of Public and International Affairs, University of Ottawa  
Alasdair Roberts, Professor of Public Policy, University of Massachusetts Amherst  
Timothy Andrews Sayle, Associate Professor of History, University of Toronto, and creator of *Canada Declassified*  
Stanley Tromp  
James L. Turk, Director, Centre for Free Expression  
Bruce Wark, Journalist  
Bianca Wylie

# Terms of Reference

Independent Review Committee  
Modernization of the  
*Access to Information Act*

## **Draft Terms of Reference for the Independent Review of Canada's *Access to Information Act*: Toward a Modern, Transparent and Accountable Government**

### **1. Objective**

The overall aim of the review should be to ensure that the *Access to Information Act* (ATIA) and the manner in which it is implemented are fit for purpose in a modern democracy in the digital era.

The review should be comprehensive, independent and inclusive, and grounded in the public's right to know, and have as its goal the establishment of a robust, transparent, reliable, user-friendly and enforceable system for accessing information held by public authorities.

### **2. Scope**

The review should have a broad mandate covering any matter which is either covered by the present ATIA or which those overseeing the review deem to be relevant to ensuring access to information held by public authorities in Canada. It should cover both reform of the ATIA and measures which are needed to ensure that implementation of the Act is in line with its goals and objectives. In addition, the review should take a unified, structural approach to Canada's access to information framework

### **3. Independence**

It is of the essence that the panel overseeing the review be independent of government and political biases. Its members should be both independent themselves and also broadly representative of Canadian society. This independence should be underpinned by their manner of appointment, the definition of their mandate and the funding and other resources which are made available to them. The panel should choose its own chair and be supported by a secretariat which enables it to do its work effectively and without bias.

### **4. Public Engagement**

The review should engage in robust consultations with Canadians, conducted in a manner which is designed to ensure that all stakeholders, regions, and communities in Canada have a genuine opportunity to participate. This should involve written, digital, and in-person consultation opportunities which are designed in an open-ended manner which allow participants to put forward any recommendations they may wish to.

In addition to front-end consultations, the consultative process should involve publication of a draft "what we heard" document, with an opportunity for those involved to comment on that document, as well as a draft set of findings and recommendations, again with an opportunity for stakeholders to comment before they are finalised.

### **5. Timeline**

The timing of the review should reflect an appropriate balance between allowing for robust consultations and sufficient time for the panel to do its work properly, on the one hand, and not letting the process get bogged down or be subject to unnecessary delays, on the other.

## **6. Transparency**

The review should itself be scrupulously transparent. All written submissions, transcripts from meetings, working documents and other information should be published promptly via a central, bilingual review portal, based on the principle that no one should be entitled to conduct advocacy towards government in secret, subject only to the protection of personal data, as relevant.