

To: The Right Honourable Mark Carney
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To: The Honourable Mélanie Joly
Minister of Innovation, Science and Industry
House of Commons
Ottawa, ON K1A 0A6

To: The Honourable Stephen Guilbeault
Minister of Canadian Identity and Culture
House of Commons
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To: The Honourable Sean Fraser
Minister of Justice
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To: The Honourable Evan Solomon
Minister of Artificial Intelligence and Digital Innovation
House of Commons
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CIVIL SOCIETY JOINT LETTER: Overhaul Canada's Digital Policy Approach

As concerned civil society organizations and digital policy experts in Canada, we are writing to urge you to confront the digital policy challenges our country faces through distinct, targeted legislation.

Commentators have observed that our last government's digital policy agenda, including Bills C-11, C-18, C-26, C-27, and C-63, came from three different ministries, and were inadequately coordinated. This fragmentation of responsibility resulted in overlaps, contradictions, missed issues, confusion around government intentions, and a range of potentially costly implementation and compliance burdens for Canadian businesses.

We recognize substantial value in — and significant need for — developing digital policy legislation within a coherent, integrated, and fully transparent plan for Canada's digital future. The appointment of Evan Solomon as Minister for AI and Digital Innovation on May 13th represents an opportunity to launch a consistent whole-of-government process that articulates priorities, democratic values, and a roadmap of next steps the government will take. Clear priorities to incorporate within this coherent vision include measures that genuinely protect and

enhance Charter rights online, improve online safety and privacy, and effectively regulate the monopolistic practices of both telecom and tech giants.

We strongly recommend your digital policy vision for Canada's future move forward via targeted legislation built around closely related and clearly defined issues, rather than the disjointed, omnibus bill approach adopted in Bills C-27 and C-63. This direct approach is crucial to enabling your digital policy proposals to benefit from thorough parliamentary study, adequate consideration of needed amendments, successful passage and enduring impact.

We make this recommendation based on our recent experience of what contributes to effective policy discussion and parliamentary consideration. Many of us were deeply involved in the prolonged committee consideration of Bill C-27. Others were equally involved in the lengthy consultation that informed Bill C-63, and in the brief committee pre-study it received last year. As you know, both pieces of legislation packaged conceptually distinct legislative reforms into joint packages. Bill C-27 combined long-overdue, but inadequate, reforms to Canada's private sector privacy law, the *Personal Information Protection and Electronic Documents Act* (PIPEDA), with new, incomplete, and repeatedly-revised regulation of artificial intelligence, the *Artificial Intelligence and Data Act* (AIDA). AIDA was introduced without prior public consultation, depriving the government of valuable feedback and leading to unnecessary confusion at committee. Bill C-63 similarly bundled together the creation of the *Online Harms Act* in Part 1 with far more controversial changes to Canada's *Human Rights Act* and *Criminal Code* in Parts 2 and 3, which largely overshadowed the *Online Harms Act* itself. Neither bill was able to receive the careful committee study that their distinct and very different bundled parts needed and deserved. Neither passed committee study and received a final vote, in significant part due to problems caused by this approach.

Key issues with this fractured approach included:

- **Unmanageable complexity:** The intricacies of digital policy are inherently complicated, particularly when dealing with emerging technologies like artificial intelligence (AI), while balancing sensitive public goods such as privacy, safety, and freedom of expression. The overbroad range of issues raised by multi-part bills like C-27 and C-63 undercut the ability of Parliamentary Committees to give adequate consideration and scrutiny, and of Canadians, including civil society, to participate fully in Parliament's deliberation. Moreover, the range and volume of feedback prompted by this bundling made it near impossible for committee MPs to integrate and act on the necessary input they received from stakeholders.

Advancing a clear governmental agenda through distinct, clearly articulated, closely-linked proposals that each receive adequate committee study will help ensure an effective and well-informed witness and amendment process that bolsters public trust and confidence in government and the legislative process.

- **Limiting potential bill support:** Many of us supported aspects of Bills C-27 or C-63 that reflected our values and mandate. Unfortunately, the many intertwined problematic sections they were paired with made it impossible for many of us to endorse the government's efforts in their entirety.

While omnibus legislation might be expected by some to garner wide support from many quarters, our practical experience of Bills C-27, C-63, and other legislative initiatives, suggests that this approach creates legislation with few strong defenders and little stakeholder support, thereby weakening the chances of positive digital policy passing a minority Parliament or surviving review by future governments.

- **Extended timelines:** Intermixing distinct proposals into omnibus bills means that no part of Canada's badly needed digital policy reforms can move forward without the rest. Each one is burdened by all others. Yet there is no credible or sustainable substitute for the hard work of thoroughly studying Canada's digital policy challenges; gathering public and expert input from a truly broad cross-section of stakeholders, including civil society; and amending proposed laws before their adoption to ensure the protections and limits they prescribe are proportional and provide the greatest benefit possible for all Canadians. Some digital policy has gone through much of this review already, while other proposals are only beginning the journey.

At best, continuing the practice of bundling legislation into omnibus bills will encumber and greatly delay the process of enacting basic policy improvements that many Canadian stakeholders support; at worst, as demonstrated by Bills C-27 and C-63, it may delay those improvements indefinitely, while diverting limited legislative and committee attention from other priorities.

Each of these concerns is reason enough to reconsider an omnibus approach to digital policy; together, we believe they should rule the practice out entirely.

Therefore, we urge the government to:

- Place the responsibility for articulating and coordinating its multifaceted digital policy under a single department that has the authority to draw on all of government for assistance and expertise;
- Advance its digital policy agenda through distinct, separate legislative vehicles, each focused on addressing a clearly-defined issue such as privacy or online safety;
- Ensure each proposed package receives the necessary time to be examined and debated thoroughly, and amended through committee study;
- Where a full public consultation on a priority issue area has not yet occurred, conduct that consultation with a broad cross-section of Canadians and stakeholders, through an open and transparent process. This will best enable expert and public knowledge to inform the government's legislative development;

- Prioritize long-overdue reforms that enjoy broad consensus, such as strengthening online privacy protections, and addressing the most easily identifiable illegal online harms.

Signed as Organizations:

OpenMedia

British Columbia Civil Liberties Association

Canadian Civil Liberties Association

Canadian Council of Muslim Women

Canadian Muslim Public Affairs Council

Centre for Free Expression

GoodBot Society

International Civil Liberties Monitoring Group

Privacy & Access Council of Canada

Signed as Individual Experts:

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