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TO: HON. JUSTIN TRUDEAU, Leader Liberal Party of Canada
HON. PIERRE POILIEVRE, Leader Conservative Party of Canada
HON. JAGMEET SINGH, Leader New Democratic Party of Canada

June 10

RE: Joint call to the three participating federal political parties to cease their legal challenge to the application of BC privacy law to their operations in BC, and to develop an effective and enforceable national privacy regime for all federal parties

Dear Party Leaders:

The undersigned organizations and experts are deeply concerned by your ongoing legal challenge to the application of BC's Personal Information Protection Act (PIPA) to your operations in BC.

We call on you to stop this litigation now. It frustrates the fundamental right to privacy of Canadians. It is time-consuming, expensive, and based on flawed assumptions about privacy law and its effects on political campaigning.

We further call upon you and all political parties to commit to a genuinely effective and enforceable national regime for the protection of personal data processed by political parties, with meaningful external accountability and oversight.

On May 14th, 2024, BC Supreme Court Justice G.C. Weatherill comprehensively rejected all the arguments advanced by your counsel, and upheld the 2022 decision by the Office of the Information and Privacy Commissioner of BC that provincial privacy law should apply to the operations of federal political parties. No constitutional argument about federalism prevents the application of BC's law to your operations in BC.

Furthermore, the federal government's failure to provide all Canadians with appropriate privacy rights does not mean that individuals in BC should be deprived of theirs.

There is an overwhelming consensus that political parties must be subject to effective and enforceable privacy laws. For years, you have dismissed the expert recommendations of the Chief Electoral Officer, the federal, provincial, and territorial Information and Privacy Commissioners, the House of Commons Standing Committee on Access to Information, Privacy and Ethics, the Senate Legal and Constitutional Affairs Committee, civil society groups, and many academic commentators. You have also ignored the wishes of an overwhelming majority of Canadians from public opinion polls, including an official Elections Canada survey which found that 96% of voters believe laws should regulate how political parties collect and use their data.

Instead, your parties have chosen to engage in fruitless litigation, needlessly wasting the resources contributed by your hard-pressed donors, to advance the extraordinary proposition that individuals in BC should *not* have a right to control the circulation of their personal information in the highly sensitive arena of electoral politics. The privacy and autonomy of the

voter are, as Justice Weatherill ruled, fundamental values which "lie at the heart of our democracy."

Various party spokespeople have argued that the application of basic privacy principles will hinder their ability to "engage" with the electorate. It will not, and it has not in the many other democracies where, for decades, privacy and data protection law have applied to the operations of political parties.

The uniform application of privacy protection law — which will establish a level playing field and stop the incessant drive for more, and more refined, data used to profile Canadian voters — is an urgent necessity as sophisticated data analytics and artificial intelligence enter our politics, largely from the US. The application of privacy protection law will also ensure clear rules for the appropriate collection, use, and disclosure of personally identifiable information — for employees, volunteers, and the huge network of companies that operate within the campaigning ecosystem.

The government's response has been to propose totally inadequate amendments to the *Canada Elections Act*, the latest of which are buried in Bill C-65. These provisions impose only minimum levels of transparency. They contain no explicit standards for the collection of necessary or relevant information. They say nothing about consent. They do not allow for individual access and correction rights. They embody no meaningful system of accountability or oversight. In short, they fly in the face of broadly accepted international privacy standards.

Federal political parties are about the only category of organization in Canada where citizens do not enjoy some fundamental and enforceable privacy rights. In your efforts to legislate a lax system that amounts to little more than self-regulation, we believe that the federal political parties are in an inherent conflict of interest.

We understand the argument for a consistency of rules across Canada, but the answer is NOT to fight the application of BC's legislation and to deny BC citizens their privacy rights, but for your parties to drop your legal case, and agree that the time has come to apply higher privacy standards across the entire country, and to jointly work with regulators and parliamentarians to that end.

This could be accomplished by a straightforward amendment to the Consumer Privacy Protection Act (Bill C-27) to ensure it applies to federal political parties, or by engaging in good-faith negotiation with the Chief Electoral Officer and the Privacy Commissioner of Canada to develop a genuinely effective and enforceable national privacy regime. By one means or another, we firmly believe that establishing a national regime to an equivalent standard to British Columbia is the only appropriate response to this recent court decision.

SIGNED

Expert Signatories
Adam Molnar, University of Waterloo
Ann Cavoukian, former Privacy Commissioner of Ontario
Avigail Eisenberg, University of Victoria

Bianca Wylie, writer and public technology advocate
Brenda McPhail, McMaster University
David Lyon FRSC FAcSS, Queen's University at Kingston
David Young, David Young Law
Elizabeth Denham CBE, former UK Information Commissioner, and former Privacy Commissioner of BC
Elizabeth May, O.C., Member of Parliament for Saanich--Gulf Islands and Leader of the Green Party of Canada
Eric Montigny, Université Laval
Fenwick McKelvey, Concordia University
Florian Martin-Bariteau, University of Ottawa
Heather H Black, former Assistant Privacy Commissioner (federal)
Jacquelyn Burkell, Western University
Jennifer Stoddart, former Privacy Commissioner of Canada
John Wunderlich, John Wunderlich & Associates
Mark Miller, St. Mark's College, UBC
Matt James, University of Victoria
Michael Geist, University of Ottawa
Midori Ogasawara, University of Victoria
Murray Long, Canadian privacy law expert and advocate
Ori Freiman, McMaster University
Philippa Lawson, Barrister & Solicitor
Robert Dickson, former Saskatchewan Information and Privacy Commissioner
Sara Bannerman, McMaster University
Scott Watson, University of Victoria
Stephanie Perrin, Digital Discretion Co. Inc.
Tamir Israel, technology and human rights advocate
Teresa Scassa, University of Ottawa
Thierry Giasson, Université Laval
Valerie Steeves, University of Ottawa
Vincent Gogolek, retired lawyer
Wendy Armstrong, former lead on related issues for the Alberta Consumers' Association
Wilfrid Greaves, University of Victoria

Organizational Signatories:
BC Freedom of Information and Privacy Association
Canadian Civil Liberties Association
OpenMedia
Privacy & Access Council of Canada
Tech Reset Canada