

**Written Submission to the House of Commons
Standing Committee on Industry, Science and
Technology
Re: Canadian response to the COVID-19 pandemic**

*OpenMedia is a community-based organization that
safeguards the possibilities of the open Internet.*



INTRODUCTION

Every day in Canada, it becomes more difficult to complete activities quickly, easily or at all without using the Internet. This was true before the COVID-19 pandemic, but could not be clearer to everyone in Canada today.

To help us all get through this crisis and build a better, stronger post-pandemic Canada, we need our government to take immediate action to bridge the increasingly vital gap in Internet access as quickly and permanently as possible. We also need to make sure that our fundamental rights and freedoms survive the pandemic and flourish in a more digital, data-driven world; it is critical that the government be cautious and far-sighted in exploring new technologies to address the pandemic, and must place clear limits on their scope.

OpenMedia's submission outlines the situation in more detail and gives our recommendations for addressing these challenges.

CLOSING THE DIGITAL DIVIDE: Do it now, do it right, and don't leave anyone out.

"I'm in ill health, on social assistance and alone. The internet is essential to my sanity and keeps me in contact with the outside world. I've cut my food bill to the bone. A crisis is coming where I will be forced to lose the internet and then I will truly be alone."
- Al M., New Brunswick

Digital society is here, and it's not going anywhere. People in Canada increasingly use the Internet to participate in vital daily activities like accessing healthcare, as well as for life-changing undertakings like completing an education. For entrepreneurs and business owners, connectivity is critical; not only does the Internet enable things like cloud storage for enterprises, it will soon be one of the only ways to reach customers. According to the Canadian Internet Registration Authority (CIRA), 2/3 of Canadians said they'd be more likely to engage with a business that has a website and 64% said they'd prefer to purchase goods online.¹

The need to ensure universal access to the Internet has been electrified by the COVID-19 pandemic. Workplaces have gone remote, schools have moved to online-only classes, and video conferencing has become the only way to stay in touch. Those who have limited access to affordable high-speed Internet, or can't access it at all, are increasingly restricted from full and equal participation in our society and economy.

Today, an emergency response from the federal government is needed to ensure as many people as possible are connected to the Internet during the COVID-19 crisis. But a longer-term solution is equally as necessary to close the Digital Divide for good, rather than allowing it to continuously yawn wider post-pandemic.

¹ Canadian Internet Registration Authority (2019). *2019 Canada's Internet Factbook*.
Source: <https://www.cira.ca/resources/corporate/factbook/canadas-internet-factbook-2019>

A post-pandemic reality won't be like the world we had before. Major employers like Shopify are announcing permanent work-from-home policies,² and many schools are substantially extending their remote learning plans by months, at minimum.³ The educational, social and economic gaps between us made wider this year by unequal Internet access will not remedy themselves with time. Without help, they will grow larger, and at a faster pace than what we've seen before.

"We too are struggling with our extremely high internet costs. Being in a remote area, we are forced to use a Mobile Hub (in our case, Bell). During this Covid situation, our internet bill has skyrocketed (of course), and it's very frustrating that Bell and Rogers have offered Unlimited internet to those lucky enough to be on fibre or at least, high speed cable or land line systems." - Johnny C.

This inequality has been years in the making. Internet service providers have repeatedly invested in services and upgrades for urban and well-off communities, while thousands of rural and low-income communities are still waiting for any service at all. As frequent infrastructure upgrades are rolled out to the most dense, well-served population centres, investments in underserved markets remain stagnant. And each time these same communities get upgraded access to an even newer, faster, state-of-the-art highway, it's just another painful reminder that the rest of the country is still left with the same expensive dirt road to the Internet they've used for the past 20+ years.

RURAL COMMUNITIES LEFT BEHIND

Significant gaps in affordability, coverage, and speed are more widespread in rural communities, generally due to higher costs of service and lower average incomes. In rural communities, poverty and the Digital Divide are connected in a self-perpetuating cycle; having low income is a barrier to affording a quality Internet plan, but having no connection (or a limited connection) is a barrier to economic opportunity and the ability to earn a higher income.

"Living in rural Canada and trying to make a living wage, the challenges of internet costs are unfair and not necessary..." Melodie D., Nova Scotia

Purely looking at the accessibility of the Internet in rural Canada, the Canadian Radio-television Telecommunications Commission (CRTC)'s fixed broadband coverage map of the three prairie provinces provides a clear depiction of just how disconnected rural communities are (Figure 1).

² CBC News (2020). *Shopify permanently moves to work-from-home model*. Source: <https://www.cbc.ca/news/canada/ottawa/shopify-pandemic-staff-ottawa-1.5578614>

³ GlobalNews (2020). *Will students return to campus next year? Probably not, experts say*. Source: <https://globalnews.ca/news/6986132/coronavirus-canada-university-college/>

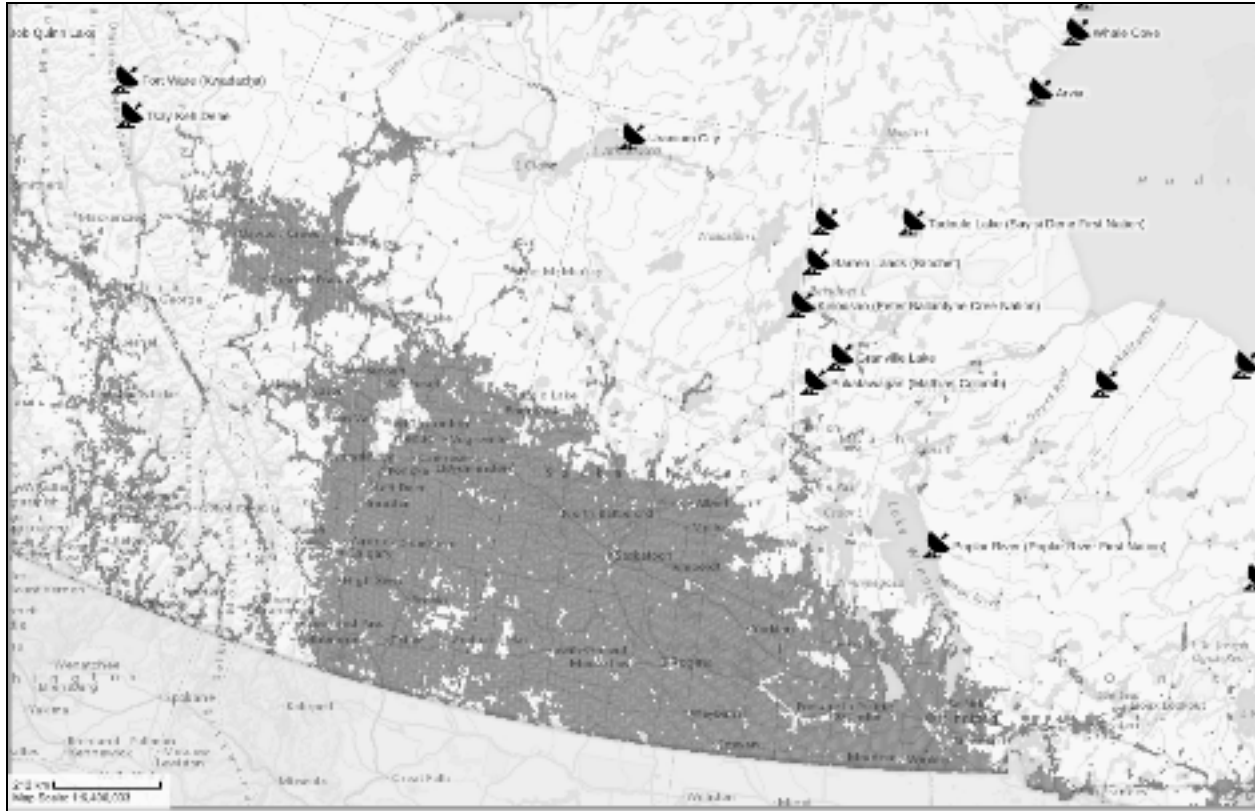


Figure 1: Dark gray areas of the map indicate “Inhabited” areas without fixed broadband access to the CRTC’s target (50/10 Mbps) in Alberta, Saskatchewan, and Manitoba. Satellite icons indicate communities that rely on satellite Internet. Notable areas of fixed broadband coverage include all urban (e.g. Edmonton, AB) and some medium-sized population centres (e.g. Yorkton, SK). The lack of dark gray in the northern regions of all three provinces in all cases likely reflects a lack of population rather than the existence of broadband coverage.⁴

According to CIRA’s Internet Performance Test (IPT), rural download speeds in April 2020 were almost 12 times slower than speeds in urban Canada. During the pandemic, typical rural speeds of 4-7 Mbps have dropped to 3.78 Mbps, while urban speeds have actually climbed to an average of 44 Mbps.⁵ CIRA has also collected evidence through the IPT that rural Canadians often receive poorer speeds than what they pay for from their ISPs, who are not forthcoming about the discrepancies shown by self-reported data.⁶

⁴ Canadian Radio-Television and Telecommunications Commission (2018). *Fixed Internet Access and Transport Maps*. Source: https://crtc.gc.ca/cartovista/fixedbroadbandandtransportye2018_en/index.html

⁵ Canadian Internet Registration Authority (2020). *New internet performance data shows the staggering scale of Canada’s urban-rural digital divide*. Source: <https://www.cira.ca/newsroom/new-internet-performance-data-shows-staggering-scale-canadas-urban-rural-digital-divide>

⁶ Canadian Internet Registration Authority (2019). *Telecom Notice of Consultation CRTC 2019-406 Call for comments regarding potential barriers to the deployment of broadband-capable networks in underserved areas in Canada*. Source: <https://www.cira.ca/sites/default/files/2020-05/CRTC%202019-406%20CIRA%20Submission.pdf>

“On a great day, we would love to see our maximum download speeds of 3 Mbps. Our upload speeds are so bad that a 4-minute Youtube video took me over 26 hours to upload to the site.” - Thomas C., Bonavista—Burin—Trinity

CANADA’S DIGITAL DIVIDE IS EVERYWHERE

While Canada’s urban-rural digital divide is clear, low-income urban Canadians have their own set of challenges when it comes to getting connected.

In 2015, the CRTC found that 59% of Canada’s lowest income households had access to the Internet at home, versus 98% of the highest-income households.⁷ According to ACORN’s 2016 *Internet for All* report, 83% of its membership survey respondents said the cost of home internet was “extremely high.” In the same survey, 58% said, “I can’t afford it, but because I need it I take money out of my budget for other items.” Some of the items most often foregone were **food and rent**.⁸

Bridging Internet affordability and access gaps would close the Digital Divide for millions of Canadians from coast to coast to coast. As it stands:

- 1 in 10 Canadian households do not have a home Internet connection⁹.
- Between 6.6 million and 11 million people live in rural Canada.¹⁰
- Amongst connected rural households, only 41% have access to the speed targets of 50 Mbps download/10 Mbps upload (50/10 Mbps) as set out by Canada’s Connectivity Strategy.⁹
- In 2016, the percentages of rural households who had no wireline options and could only access the Internet via mobile phone were 6% and 10% (1.5 Mbps and 5 Mbps, respectively).¹¹
- 44% of status First Nations people live on reserves, and only 31% of First Nations reserves meet the 50/10 Mbps target.¹²
- 12.3% of Canadians are considered low-income, according to Statistics Canada’s relative low income indicator.¹³

⁷ ACORN Canada (2016). *Internet for All: Internet Use and Accessibility for Low-Income Canadians*. Source: <https://acorncanada.org/resource/internet-all>

⁸ ACORN Canada (2016). *Internet for All: Internet Use and Accessibility for Low-Income Canadians*. Source: <https://acorncanada.org/resource/internet-all>

⁹ Canadian Radio-Television and Telecommunications Commission (2019). *Communications Monitoring Report 2018*. Source: <https://crtc.gc.ca/pubs/cmr2018-en.pdf>

¹⁰ Strengthening Rural Canada. *Fewer & Older: Population and Demographic Challenges Across Rural Canada*. Source: <http://strengtheningruralcanada.ca/file/Fewer-Older-Population-and-Demographic-Challenges-Across-Rural-Canada.pdf>

¹¹ INDU Committee Report (2018). *Broadband Connectivity in Rural Canada: Overcoming the Digital Divide*. Source: <https://www.ourcommons.ca/DocumentViewer/en/42-1/INDU/report-11/page-63>

¹² Statistics Canada (2017). *Aboriginal peoples in Canada: Key results from the 2016 Census*. Source: <https://www150.statcan.gc.ca/n1/daily-quotidien/171025/dq171025a-eng.htm>

¹³ Statistics Canada (2018). *Dimensions of Poverty Hub*. Source: <https://www.statcan.gc.ca/eng/topics-start/poverty>

- Only 54% of seniors with incomes under \$20,000 use the Internet, compared with 73% and 79% for seniors with household incomes of \$60,000-\$79,999 and >\$100,000, respectively.¹⁴

Throughout the COVID-19 pandemic, closing the Digital Divide has been highlighted as a priority by political parties on all sides.^{15 16 17} With our nation currently being held together by the Internet—and with the public, federal government, and opposition parties all in alignment—now is the time to act decisively to connect Canada once and for all.

TOWARDS AN IDEAL UNIVERSAL CONNECTIVITY & AFFORDABILITY PLAN

1. An accelerated timeline to bring 100% of Canadian households online to 50/10 Mbps speeds—by 2025 at the latest:

- a. The current timeline as outlined by Canada's Connectivity Strategy is to provide access for 100% of Canadian households online to 50/10 Mbps by 2030. But Canadians in rural and remote communities cannot wait another decade for basic connectivity. It is critical that the government reevaluate the urgency of bringing all Canadians online to the minimum speeds identified by the federal government in 2018.

2. Immediate funding to support current shovel-ready high-speed (50/10 Mbps) access projects during COVID-19:

- a. To address the urgent need to connect Canadians to the Internet during the COVID-19 pandemic, the government should prioritize the rollout of funding to support broadband access projects that are ready to begin construction immediately.

3. Mandated broadband basic service packages:

- a. Every single person must have a minimum service available to them, regardless of their income bracket, or where they live. This includes minimum guarantees of service reliability at a reasonable price. This would have a significant impact on addressing service quality and affordability gaps by ensuring a universal broadband option of appropriate quality, available to everyone in Canada.

4. Minimum basic service standards:

- a. Broadband speed targets outlined by the federal government, like the 50/10 Mbps target, will only be successful if there is a built-in accountability mechanism directed at ISPs. A declaration of basic service standards would ensure a minimum speed guarantee by providers on all connections, which must be based on actual measured speeds and reliability indicators.

¹⁴ Statistics Canada (2019). *Study: Evolving Internet Use Among Canadian Seniors*. Source: <https://www150.statcan.gc.ca/n1/daily-quotidien/190710/dq190710d-eng.htm>

¹⁵ Hon. Michelle Rempel Garner (2020). *Connect Canada - Call to Action on Rural Internet Access*. Source: <https://mprempe.ca/news/f/connect-canada---call-to-action-on-rural-internet-access>

¹⁶ Hon. Brian Masse (2020). *NDP Plan for High Speed Broadband Internet for all Canadians*. Source: <https://www.brianmasse.ca/news/masse-ndp-plan-for-high-speed-broadband-internet-for-all-canadians/>

¹⁷ CBC News (2020). *Liberals hasten high-speed broadband access plan in response to pandemic*. Source: <https://www.cbc.ca/news/politics/broadband-internet-covid-1.5552261>

5. Future-proofing investments with long-lasting fibre technologies:

- a. Government investment into areas that have been chronically underserved must ensure that these investments will last as long as possible. That means fibre connectivity.
- b. No public funds should be allocated to implementing or upgrading outdated technologies that do not scale to meet the growing demand for fixed network resources, such as the DSL/Fibre-to-the-node (FTTN) networks of incumbents.
- c. Fibre-to-the-premises (FTTP) is future-proof; for years to come it will still be fast, durable, and highly efficient. The high capacity of fibre ensures that once a FTTP network has been built, there's no need to build another.¹⁸ Outdated platforms like DSL and copper wire would be a poor investment with minimal return.¹⁹ If investments are not made in fibre, the cost of closing the digital divide will multiply; in 10 years we may have just finished bridging the gap with DSL or satellite, only to see that technology become obsolete, and then must complete this entire process over again in an endless project cycle.

6. Mandated fibre wholesale access for third parties:

- a. The retail cost of broadband for Canadian consumers is demonstrably higher in markets with less competition. Third-party wholesale access obligations are critical to ensuring the retail affordability of broadband for underserved people in Canada. But unfortunately, *five years* after the CRTC ruled that fibre Internet must be available for wholesale services, we are yet to see wholesale services available.²⁰
- b. Setting reasonable rates for wholesale access to allow smaller providers to also provide fibre Internet services is critical to not just ensuring availability, but affordability, as more competition ensures a greater range of plans and services offered.
- c. When public funds are used to build broadband infrastructure, such networks must be open-access by default. Any party—independent ISPs, municipalities, and incumbents alike—should have equal access to any infrastructure funded by the government.
- d. Mandated open/third-party access also encourages multiple ISPs to use the same infrastructure, cutting the costs of deployment, lowering the barrier to entry for smaller providers, and promoting efficient use of public funds.

7. No centralized fund allocation strategies:

- a. The government should avoid centralized fund allocation strategies such as a “National Contribution Fund 2.0”, or the Connecting Canadians program. These types of programs bypass the local democratic accountability in rural project

¹⁸ Electronic Frontier Foundation (2019). *Why Fiber is Vastly Superior to Cable and 5G*. Source: <https://www.eff.org/deeplinks/2019/10/why-fiber-vastly-superior-cable-and-5g>

¹⁹ Rural Development Institute (2016). *RESEARCH BRIEF: State of Rural Information and Communication Technologies in Manitoba*. Source: https://www.brandonu.ca/rdi/files/2016/11/RDI_Brief-DigAction-Sept5.16-FINAL.pdf

²⁰ Canadian Radio-Television and Telecommunications Commission (CRTC) (2015). *Telecom Regulatory Policy CRTC 2015-326*. Source: <https://crtc.gc.ca/eng/archive/2015/2015-326.htm>

design, development, and monitoring, and historically have set up the initiatives for failure.

- b. Public-private partnerships that engage local communities in identifying needs, encourage private service providers to invest, and hold those providers accountable have proven to be the most cost-effective approach to addressing rural market failures. These ensure that those the most in need of service are at the heart of any decision-making processes about their future.

8. An expansion of the low-income Connecting Families program to include seniors and single people:

- a. The current Connecting Families program is problematically exclusive in who is eligible, leaving many of those most vulnerable ineligible for access.²⁰ Those who have a family, live alone, or are in their senior years are all equally in need of affordable Internet.

9. A universal Internet package for low-income Canadians priced at \$10/month, with minimum speeds of 50/10 Mbps (increased from the Connecting Families program's current 10 Mbps minimum²¹):

- a. Low-income Canadians need access to the Internet with the exact same level of functionality as everyone else. Video calls, job applications, telehealth services, educational resources, and government services, all have the same bandwidth requirements, regardless of your income bracket. Providing a subpar level of service to those most in need, does nothing but perpetuate and deepen the same disparities that already exist.

10. Mandate no service disconnections during COVID-19 social distancing:

- a. Underpinning the entire COVID-19 response is the fact that the Internet and cell phone data are lifelines for Canadians. During this difficult time, they should not have to endure shakedowns for payments from telecom companies threatening disconnection to those lifelines. Through the continued funding of financial relief programs (e.g. CERB), the federal government acknowledges that Canadian households are relying on emergency funds just to stay afloat. Banning disconnections is a logical extension of such policies.

11. Ban data caps during the COVID-19 pandemic:

- a. Canadians who are working from home, studying remotely, or simply practicing good social distancing all have an increased need for data during this crisis. Data caps, and their corresponding overage fees, unfairly punish people—especially those of us who are low income—for using the Internet in necessary ways to survive a global pandemic.
- b. While some telecom companies have temporarily suspended data caps for the opening months of the pandemic—and some permanently, such as Distributel²²—many have not, particularly for wireless and satellite services. As such, the

²¹ Connecting Families (2019). *Welcome to Connecting Families*. Source: <https://www.connecting-families.ca/welcome>

²² Newswire (2020). *Distributel Permanently Waives Data Overage Charges on all Internet Plans*. Source: <https://www.newswire.ca/news-releases/distributel-permanently-waives-data-coverage-charges-on-all-internet-plans-841966195.html>

government must introduce and enforce a ban on cell phone and Internet data caps until the COVID-19 pandemic has passed.

PRIVACY AND FUNDAMENTAL RIGHTS & FREEDOMS

Privacy is a serious concern for many in Canada as the COVID-19 crisis unfolds, especially with regards to contact tracing and other forms of surveillance or data gathering.

We are not advocating for the adoption of contact tracing applications. However, we recognize that there is significant interest from many to make this happen, and in some provinces, this is already underway. As such, it is critical to emphasize: the government's response to the pandemic must carefully consider the costs to our privacy, values and human rights before adopting any new measures, and must ensure it is proportional, limited in scope, and time-limited to the period of the pandemic. This includes the adoption of digital surveillance technologies and apps to track potential contacts and exposure, as well as the broad collection of health data underway more generally.

The experiences of medical professionals and app deployers in other countries that have tested app-based contact tracing suggest its contributions are moderate at best.²³ Technological solutions cannot replace—and will not work without—a proper infection testing system, and extensive government support for people to stay at home.²⁴ Any measures that would amount to mass warrantless surveillance of identifiable people in Canada would not be a proportionate or reasonable response to the pandemic, nor would making the installation of contact tracing apps mandatory.

The greatest asset we have for confronting the pandemic is public trust. Public trust in the actions of their government and health care professionals is what drives the remarkable participation in public health measures that have driven our relative success confronting COVID-19 so far.

Unfortunately, the trust Canadians have in their government to protect their privacy is already battered and eroded; the public has been stung by both a series of recent privacy breaches like Desjardins and even last year's StatCan banking information data collection, as well as by the continued failure of the government to act on its promises to update our out-of-date privacy laws and provide meaningful legal recourse for privacy violations.

The COVID-19 pandemic should be a turning point for rebuilding public trust around the government's respect for our privacy rights. In the short-term, we're calling for any potential contact tracing app released by our government to follow seven key privacy principles, including

²³ MIT Technology Review (2020). *Nearly 40% of Icelanders are using a covid app—and it hasn't helped much*. Source: <https://www.technologyreview.com/2020/05/11/1001541/iceland-rakning-c19-covid-contact-tracing/>

²⁴ CNET Health & Wellness (2020). *Tech isn't solution to COVID-19, says Singapore director of contact tracing app*. Source: <https://www.cnet.com/health/director-behind-singapores-contact-tracing-app-says-tech-isnt-the-solution-to-covid-19/>

oversight, proportionality, and limits on data gathering and sharing, which OpenMedia developed with the B.C. Civil Liberties Association (BCCLA), BC Freedom of Information and Privacy Association (FIPA), International Civil Liberties Monitoring Group (ICLMG) and Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC).²⁵

TOWARDS AN IDEAL COVID-19 PRIVACY RESPONSE: Ensuring continued privacy & security for years to come

1. Contact tracing app protocols built on privacy principles:

- a. IF the government does decide to move ahead with contact tracing or other forms of data capture and emergency powers, it must adopt strict boundary-setting privacy principles that limit the powers of government.
- b. Any surveillance-based measures must only be relied on where only demonstrably necessary, and only as a last resort. Instead, the government must make use of robust COVID-19 testing, public education, financial assistance, and other options that allow people to practice social distancing and avoid infection.

2. A rejection of facial recognition technologies as part of social distancing enforcement:

- a. Facial recognition is already notorious for misidentifying people who have done nothing wrong. In fact, facial recognition almost always ‘catches’ many more innocent people than actual criminals.²⁶ Being misidentified as a breaker of COVID-19 social distancing laws could lead to consequences like harassment, criminal charges, or physical assault.
- b. The slippery slope of facial recognition leads to real-time, nonstop surveillance, where activities such as shopping or attending political gatherings are monitored, recorded and stored. There is no way to know how this information could be used post-pandemic or who it could be shared with.

3. Development of clear limiting legislation on the deployment of facial recognition/biometric technologies and the data they generate:

- a. The government must use its legislative powers to ensure data collection is limited to only what is strictly necessary for established public health considerations directly relating to the emergency, and proportionate, keeping in mind the sensitivity of the data. All collected data must be de-identified and anonymized, and must be fully and promptly deleted as soon as it is no longer necessary to contain the pandemic.
- b. The government must enshrine in law that the intended use of any collected data must be specifically and clearly defined. It must only be used for the public health purposes that justified its collection and may only be disclosed to public health bodies. No data gathered through these measures can be used to achieve law

²⁵ Joint statement: Digital surveillance technologies and COVID-19 in Canada (2020). Source:

https://openmedia.org/sites/openmedia.org/files/joint_statement_digital_surveillance_technologies_and_covid-19_in_canada.pdf

²⁶ The Independent (2019). *Facial recognition wrongly identifies public as potential criminals 96% of time, figures reveal*. Source: <https://www.independent.co.uk/news/uk/home-news/facial-recognition-london-inaccurate-met-police-trials-a8898946.html>

enforcement or immigration objectives, or for commercial purposes, including in de-identified format.

4. A ban on deployment of facial recognition/biometric technologies until corresponding privacy legislation is in place:

- a. The government cannot allow facial recognition/biometric technologies to operate before robust protections have been put in place that limit the potential for harm. Canada's privacy laws are currently not strong enough to protect citizens from having their biometric data gathered by these technologies without their free, prior and informed consent.

5. Entrench explicit support for 'strong' unbreakable encryption on all commonly-used platforms in Canadian law:

- a. As digital spaces increasingly become our primary civic space, it is critical that our digital communications are private and secure. As such, the government should make firm commitments to continue protecting strong encryption.
- b. As has been said again and again by security experts: there is no such thing as backdoor access to encrypted communication that is only available to law enforcement.²⁷ It is like flipping a switch off or on; the choice is between continuing to build online infrastructure that has effectively supported vibrant commerce, activism and civil association for 30+ years, or breaking private communications to leave them vulnerable to thieves, stalkers, and autocratic governments around the world. Canada must stand on the right side of this issue.
- c. As Canadian telecom providers have already begun adopting 5G infrastructure that may be compromised by foreign intelligence, widespread strong encryption has never been more important to our commerce and national security.²⁸

6. Start reform of PIPEDA and the Privacy Act this year, with ample opportunity for public consultation and input:

- a. Ministers with privacy reform currently in their mandate must announce a timeline for consultation, drafting, feedback and reform.
- b. Members of the general public and civil society groups must be given ample opportunity to be consulted on current and proposed legislation, as well as best practices for amending them to meet the challenges that have emerged in the 16 to 36 years since our privacy laws were last amended.
- c. Real enforcement power with meaningful penalties for violations of privacy rights must be entrusted to the independent authority of our provincial and federal Privacy Commissioners, to ensure that corporate and government violations of our rights to privacy and control of our data have real consequences.

²⁷ SKYECC (2019). *There is No Such Thing as a Secure Encryption Backdoor*. Source: <https://www.skyecc.com/no-secure-backdoors/>

²⁸ The Globe and Mail (2020). *Trudeau says Ottawa undecided on whether to block Huawei from 5G networks*. Source: <https://www.theglobeandmail.com/politics/article-trudeau-says-ottawa-undecided-on-whether-to-block-huawei-from-5g/>