



## Ensure political parties are subject to Canadian Privacy Law

*Submission to the House of Commons Standing Committee on Finance*

**Issue:** OpenMedia, supported by more than 7,500 Canadians who have endorsed its [Democracy SOS petition](#), calls on parliamentarians to remove the proposed amendment to the *Canada Elections Act* set out in [Division 39 of Bill C-47](#).

If passed, this amendment would:

1. Permanently exclude political parties from Canadian privacy laws;
2. Strip away the enhanced privacy protections enjoyed by residents of British Columbia, where federal political parties are subject to BC's *Personal Information Protection Act*;
3. Prevent other provinces from implementing similar or stronger privacy protections in their jurisdictions.

**Background:** The right to privacy is fundamental to our democratic process — and there are few things more privacy-sensitive than the data on individual voters collected and held by political parties. Such data goes far beyond the basic personal information found on the Voters List, to encompass past and present political views, demographic and cultural information, and propensity to support or oppose certain parties.

Right now, Canadian political parties are in a privacy wild west: they aren't private companies subject to *PIPEDA*, our private sector privacy laws, nor are they subject to the *Privacy Act*, which regulates government agencies' handling of our personal information.

If Division 39 passes, this deeply-concerning situation will be made permanent, and political parties will continue to be the only category of organization in Canada that do not have to abide by basic privacy standards. Federal political parties will be able to set their own rules about how they collect and use personal information, and will oversee their own adherence to those rules.

**Concerns:** OpenMedia endorses the concerns about Division 39 [expressed](#) by Professor Colin Bennett, who has extensively studied how political parties handle sensitive data — in particular:

- Division 39 flies in the face of the [recommendation](#) of the House of Commons Access to Information, Ethics, and Privacy Committee that privacy law should apply to political parties — a recommendation [supported](#) by 96% of Canadians in a survey conducted by Elections Canada.
- There is an obvious connection between Division 39 and the ongoing BC Supreme Court case on whether federal political parties should be required to comply with BC's



*Personal Information Protection Act* (PIPA). Division 39 is cynically designed to enable political parties to argue that a “national, uniform, exclusive, and complete” privacy regime exists which takes precedence over BC privacy law. In reality, the supposed “regime” set out in Division 39 will legalize the current wild west practices of political parties, and prevent even the most minimal accountability and transparency measures.

- Bill C-27’s *Consumer Privacy Protection Act*, not the *Canada Election Act*, is the most appropriate legislation by which to regulate political parties’ use of personal data — and the Office of the Privacy Commissioner of Canada is the appropriate oversight body, not Elections Canada.

**Recommendation:** Political parties should be brought within Canada’s legal privacy framework, as is the case in most other democracies across the globe.

**OpenMedia urges the following changes:**

1. **Remove Division 39, the amendment to the *Canada Elections Act*, from Bill C-47**
2. **Add political parties to the definition of organizations in Bill C-27’s *Consumer Privacy Protection Act*, so that they’re explicitly covered by Canada’s privacy laws.**

**References:**

- Emergency [Democracy SOS petition](#) endorsed by **XX,000** Canadians
- [Government’s efforts to introduce privacy rules for federal political parties wholly inadequate and totally cynical](#) -- Prof. Colin Bennett, The Hill Times 1 May 2023
- [Thousands protest government plan to exclude federal political parties from Canadian privacy laws](#) -- OpenMedia Press Release, 2 May 2023
- [Senate Legal & Constitutional Affairs Committee testimony](#) on Bill C-47 from Philippe Dufresne, Privacy Commissioner of Canada & Stéphane Perrault, Chief Electoral Officer -- 3 May, 2023
- [Political parties’ use of voter data ‘shrouded in secrecy,’ say critics](#) -- The Hill Times, 5 May 2023
- [Liberals try to delay fight over privacy rules for political parties](#) - Alex Boutilier, Global News, 8 May 2023
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- [Michael Geist's Law Bytes Podcast, Episode 166](#): Colin Bennett on How the Government Is the Using the Budget Implementation Act to Weaken the Privacy Rules for Political Parties - 8 May 2023

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