



Report on the Administration of the  
*Access to Information Act*  
for the Fiscal Year  
2009-2010

## Introduction

### Purpose of the *Access to Information Act*

The *Access to Information Act* describes its purpose as follows:

*The purpose of this Act is to extend the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government.*

### CBC/Radio-Canada Mandate

The Corporation's mission is set out in paragraphs 3(1)(l) and 3(1)(m) of the *Broadcasting Act*, which provide:

- (l) the Canadian Broadcasting Corporation, as the national public broadcaster, should provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains;
- (m) the programming provided by the Corporation should
  - (i) be predominantly and distinctively Canadian,
  - (ii) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions,
  - (iii) actively contribute to the flow and exchange of cultural expression,
  - (iv) be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities,
  - (v) strive to be of equivalent quality in English and in French,
  - (vi) contribute to shared national consciousness and identity,
  - (vii) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and
  - (viii) reflect the multicultural and multiracial nature of Canada;

## **CBC/Radio-Canada Services**

CBC/Radio-Canada is the only Canadian broadcaster delivering a comprehensive range of radio (commercial-free), television, Internet, and satellite-based services to Canadians, in English, French and eight Aboriginal languages. The Corporation's broadcasting reach extends across Canada and around the world, offering high-quality, distinctive content by, for and about Canadians, however and wherever they want it.

### **English Services**

- CBC Radio One (news, current affairs, arts, and culture via radio and Sirius Satellite Radio Channel 137)
- CBC Radio 2 (classical, jazz and popular music via radio and four online channels: Classical, Jazz, Canadian Songwriters, Canadian Composers)
- CBC Radio 3 (emerging Canadian music via the Internet, podcast, and Sirius Satellite Radio Channel 86)
- CBC Television (news, information, sports, and entertainment)
- CBC News Network (continuous news and information via television)
- bold (drama, comedy, performing arts, and sports coverage)
- documentary (Canadian and international documentaries, films and series)
- CBC.ca (news, information, streaming video and audio, sports highlights, Web features, and multimedia archives)

### **French Services**

- Première Chaîne (information and cultural programming via radio)
- Espace musique (classical, jazz, vocal, world, and emerging music via radio)
- Bande à part (popular and alternative French-language music via Espace musique, the Internet, podcast, and Sirius Satellite Radio Channel 87)
- Espace classique (customised classical music via the Internet)
- Espace jazz (customised jazz via the Internet)
- Espace monde (customised world music via the Internet)
- Première plus (news, current affairs and culture, in partnership with Radio Canada International and Radio France International, via Sirius Satellite Radio Channel 94)
- Sports extra (sports information and analysis via Sirius Satellite Radio Channel 96)
- Télévision de Radio-Canada (news, current affairs, drama, culture, and programming for children and youth)
- Réseau de l'information de Radio-Canada (RDI) (continuous news, information and current affairs via television)
- TOU.TV (on-demand Web television, created by Radio-Canada, featuring programming from 20 national and international producers and broadcasters)
- ARTV (arts and culture)
- TV5MONDE (programming featuring diverse cultures and perspectives, from 10 broadcast partners, including Radio-Canada)

- Radio-Canada.ca (news, information, streaming video and audio, and Web features)

### **Combined Services**

- Radio Canada International (Canadian information and culture in seven languages via the Internet, digital and analogue shortwave, satellite, and partner stations worldwide)
- RCI viva (Web radio in seven languages featuring information for new and aspiring Canadians)
- RCI plus (programming in seven languages from Radio Canada International and national and international partners via Sirius Satellite Radio Channel 95)
- CBC North (linking Canada's northern communities via radio and television, in English, French and eight Aboriginal languages)
- CBC News Express/RDI Express (bilingual news and information service in five large Canadian airports, serving over 62 million travelers annually)
- CBC Records/Les disques SRC (label recording Canadian musicians and releasing about eight CDs annually)
- Mobile Services/Services mobiles (programming for mobile and iPhone sites, SMS alerting services, including CBC News Network and RDI as live streams and on-demand videos)
- CBC Mobile Productions/Les Productions mobiles de Radio-Canada (services for in-house production, and generating programming revenue by selling to the third party market)

### **Board of Directors**

The Corporation is governed by a Board of Directors composed of 12 members, including the Chair, and the President and CEO. The Board of Directors is responsible for the management of the businesses, activities and other affairs of the Corporation. The key responsibilities of the Board are to approve the strategic direction, corporate and business plans for the Corporation, to assess the Corporation's progress in achieving its strategic and business objectives, and to oversee the plans and policies in place to ensure effective communication with Parliament, the public and stakeholders.

### **Organizational Structure to Fulfill *Access to Information Act* Responsibilities**

CBC/Radio Canada's Access to Information and Privacy (ATIP) Office reports to the Vice-President, Real Estate, Legal Services and General Counsel, through the Associate General Counsel, Media Law. The Compliance Officer and Associate Corporate Secretary is the Corporation's Access to Information Coordinator. The ATIP Office has a staff of eight employees comprising a director, a manager, four analysts and two support staff.

The Corporation has a formal network of ATIP liaison officers covering all of the Corporation's business areas. The liaison officers are responsible for retrieving records and providing initial release recommendations to the ATIP Office.

### **Delegation Order**

Pursuant to section 73 of the *Access to Information Act* the President and CEO of CBC/Radio-Canada has designated individuals occupying the following positions to perform certain of his functions as they relate to the administration of the *Access to Information Act* within CBC/Radio-Canada:

- Compliance Officer, Associate Corporate Secretary and ATIP Coordinator;
- Director, Access to Information and Privacy;
- Manager, Access to Information and Privacy

A copy of CBC/Radio-Canada's delegation is appended to this report as Annex A.

### **Statistical Reports**

The statistical reports submitted to the Treasury Board Secretariat on the administration of the *Access to Information Act* have been completed and are appended to this report as Annexes B and C.

### **Interpretation of Statistical Reports**

CBC/Radio-Canada became subject to the *Access to Information Act* on September 1, 2007.

On April 1, 2009 the Corporation carried forward 108 requests from the previous Fiscal Year and it received 247 new requests during Fiscal Year 2009-2010. Distribution of the new requests among the categories designated by the Treasury Board Secretariat is as follows:

- Media – 25.9% (64)
- Academia – 0%
- Business – 43.3% (107)
- Organization – 2.9% (7)
- Public – 27.9% (69).

CBC/Radio-Canada responded to 315 requests, carrying forward 40 into Fiscal Year 2010-2011.

CBC/Radio-Canada has been subject to the *Access to Information Act* for 31 months. In the three fiscal years reported on to date (2007-2008, 2008-2009 and 2009-2010), CBC/Radio-Canada has received 547, 221 and 247 requests respectively. It is too soon to assess whether CBC/Radio-Canada can expect to receive similar volumes in future years. It is also too soon to infer and interpret trends relating to matters such as the application of exemptions, exclusions, or time extensions.

As data accumulates in these areas over the next 12-24 months, we will be in a better position to make meaningful interpretations in future reports.

### **Education and Training Activities**

During Fiscal Year 2009-2010 the Director, Access to Information and Privacy met with the Corporation's Vice Presidents and key members of their senior staff to update them on the experience and activities of the ATIP Office.

Although no formal ATIP training sessions were organized exclusively for CBC/Radio-Canada employees during Fiscal Year 2009-2010, informal training and mentoring continues to occur regularly on a file-by-file basis as requests and complaints are processed. This approach involves ATIP Office staff, members of the Corporation's ATIP liaison network, and other employees throughout the Corporation.

In addition, members of the Corporation's ATIP Office staff participated in information sessions offered by the Treasury Board Secretariat, and attended other ATIP-related external meetings.

### **New Institution-Specific Procedures**

No new institution-specific access to information related policies, guidelines, or procedures were developed this year. As in prior years, the focus during the 2009-2010 Fiscal Year has continued to be on improving the Corporation's overall performance in responding to requests.

### **Key Issues Raised as a Result of Complaints**

One key issue raised this year as a result of complaints relates to the Information Commissioner's right to view records in respect of which CBC/Radio-Canada has invoked s.68.1 of the *Access to Information Act*. CBC/Radio Canada and the Commissioner disagree on the consequences that flow from a decision by CBC/Radio-Canada to invoke this exclusion. It is expected that the Federal Court will hear the case this year.

The other key issue was first raised in Fiscal Year 2008-2009 and was the subject of a decision of the Federal Court this year concerning the interpretation of section 41 of the *Access to Information Act*. In a judgment dated October 13, 2009 the Federal Court dismissed the application for judicial review initiated by a requestor pursuant to section 41. A notice of appeal was filed in November 2009. The appeal is expected to proceed to a hearing in the Federal Court of Appeal later this year.

**Annex A – Delegation Order**



### CBC/Radio-Canada Access to Information Act Delegation Order

Pursuant to Section 73 of the *Access to Information Act*, I, Hubert T. Lacroix, President and CEO of CBC/Radio-Canada, do hereby designate the persons holding the positions of: Compliance Officer, Associate Corporate Secretary and Access to Information and Privacy (ATIP) Coordinator; ATIP Director; and ATIP Manager to exercise the powers and functions conferred on me by the Act as Head of CBC/Radio-Canada in the manner indicated below:

Sections	Summary of Powers, Duties or Functions	Compliance Officer, Associate Corporate Secretary and ATIP Coordinator	ATIP Director	ATIP Manager
7 (a)	To give written notice to individuals who make requests that access will, or will not, be given to requested records; and to give access to the information to the individual who made the request within 30 days	X	X	
8 (1)	To transfer to another institution or to accept transfer from another institution	X	X	X
9 (1)	To extend time limits for responding to requests submitted under the Act and to issue corresponding notices	X	X	X
9 (2)	To notify Information Commissioner of extensions exceeding 30 days	X	X	X
10 (1)	To advise individuals requesting a record that the record does not exist, or to advise individuals of the specific provisions of the Act under which a record is withheld	X	X	
10 (2)	To neither confirm nor deny that a record exists	X	X	
11 (2), (3)	To require additional payment for before access is given.	X	X	X
11 (4)	To require deposit before search for, or production of, records	X	X	X
11 (5)	To notify applicant of additional amounts payable	X	X	X
11 (6)	To waive requirement for payment, or to refund payments already made	X	X	X

Sections	Summary of Powers, Duties or Functions	Compliance Officer, Associate Corporate Secretary and ATIP Coordinator	ATIP Director	ATIP Manager
12 (2) (b) and 12 (3) (b)	To determine the necessity for translation, or conversion of requested records to alternative format	X	X	X
13 (1)	To withhold information obtained in confidence from governments of foreign states, provinces, municipalities; defined First Nations Councils; or institutions thereof	X	X	
13 (2)	To disclose information obtained in confidence from governments of foreign states, provinces, municipalities; defined first Nations Councils; or institutions thereof, if the government or institution that provided the information consents to its disclosure or makes the information public	X	X	
14	To withhold information if its disclosure would be injurious to the conduct of federal-provincial affairs	X	X	
15	To withhold information if its disclosure would be injurious to the conduct of international affairs, the defence of Canada or its allies, or Canada's efforts toward detecting, preventing, or suppressing subversive or hostile activities	X	X	
16 (1)	To withhold information obtained or prepared by investigative bodies in the course of lawful investigations; or personal information the disclosure of which would be injurious to the enforcement of any law of Canada or a province, or information whose disclosure could reasonably be expected to be injurious to the security of penal institutions	X	X	
16 (2)	To withhold information whose disclosure could reasonably be expected to facilitate the commission of an offence	X	X	
16(3)	To withhold information obtained or prepared by the RCMP while performing policing services for a municipality or province	X	X	
16.5	To withhold information that was created for the purpose of making a disclosure under the <i>Public Servants Disclosure Protection Act</i>	X	X	
17	To withhold information if its disclosure could reasonably be expected to threaten the safety of individuals	X	X	
18	To withhold information if its disclosure would be injurious to the economic interests of Canada	X	X	

Sections	Summary of Powers, Duties or Functions	Compliance Officer, Associate Corporate Secretary and ATIP Coordinator	ATIP Director	ATIP Manager
19 (1)	To withhold personal information as defined in section 3 of the <i>Privacy Act</i>	X	X	
19 (2)	To disclose personal information with the consent of the individual concerned; if the information is publicly available; or in accordance with section 8 of the <i>Privacy Act</i>	X	X	
20 (1) (a)	To withhold trade secrets of third party	X	X	
20 (1) (b)	To withhold financial, commercial, scientific or technical information that is confidential to a third party	X	X	
20 (1) (b.1)	To withhold confidential information provided by a third party for the preparation of emergency management plans that concerns vulnerabilities in the third party's security measures	X	X	
20 (1) (c)	To withhold information the disclosure of which could reasonably be expected to materially affect the financial or competitive position of a third party	X	X	
20 (1) (d)	To withhold information that would interfere with contractual or other negotiations of a third party	X	X	
20 (3)	To provide written explanation of environmental testing methods	X	X	
20 (5)	To disclose third party information described at sections 20(1) (a) to (d) of the Act with consent of the third party to whom the information relates	X	X	
20 (6)	To disclose third party information described at sections 20(1)(b) to d) of the Act if in the public interest	X	X	
21(1) (a) to (d)	To withhold information that contains advice, recommendations, accounts of deliberations, positions or plans	X	X	
22	To withhold testing and audit information if disclosure would prejudice results of particular tests or audits	X	X	
22.1	To withhold draft internal audit reports or related audit working papers	X	X	
23	To withhold information that is subject to solicitor-client privilege	X	X	

Sections	Summary of Powers, Duties or Functions	Compliance Officer, Associate Corporate Secretary and ATIP Coordinator	ATIP Director	ATIP Manager
24	To withhold information the disclosure of which is restricted by other legislation listed in Schedule II of the Act	X	X	
25	To disclose releasable information after severing it from those parts of records that are to be withheld	X	X	X
26	To refuse disclosure if information is about to be published	X	X	
27 (1)	To give third parties notice of intent to disclose information within 30 days of a request being submitted under the Act	X	X	X
27(3)(c)	To receive representations from third parties explaining why records should not be disclosed	X	X	
27 (4)	To extend 30 day time limit for third party representations	X	X	
28 (1)	Review representations and decide whether to disclose third party records	X	X	
28 (2)	To waive the requirement for third parties to provide representations in writing	X	X	
28 (4)	To give applicants access to third party records	X	X	
29	To notify third parties and requestors of a third party's right to request judicial review if the Information Commissioner recommends disclosure records containing third party information	X	X	
33	To advise the Information Commissioner of third party interest in records withheld from disclosure (following receipt of a complaint from the Information Commissioner)	X	X	X
35 (2)	To make representations to the Information Commissioner	X	X	X
37 (4)	To give complainants access to previously withheld records, as recommended by the Information Commissioner	X	X	
43 (1)	To notify third parties of requests for judicial review made by the requestors, or the Information Commissioner, where disclosure of third party information is involved	X	X	X

Sections	Summary of Powers, Duties or Functions	Compliance Officer, Associate Corporate Secretary and ATIP Coordinator	ATIP Director	ATIP Manager
44 (2)	To notify requestors when third parties request judicial review of decisions to disclose third party information	X	X	
52 (2)	To request that Section 52 applications and appeals into the non-disclosure of records pursuant to sections 13(1)(a) or (b), or 15, be held in the National Capital Region	X	X	
52 (3)	To make representations at section 52 hearings	X	X	
68.1	To exclude information pertaining to journalistic, creative or programming activities of CBC	X		
69	To exclude confidences of the Queen's Privy Council	X	X	
71 (2)	To exempt information severed from manuals	X	X	
72 (1)	To prepare annual report to Parliament on the administration of the Access to Information Act	X	X	X



Hubert T. Lacroix

1st October, 2009

**Annex B – Statistical Report for Fiscal Year 2009-2010**



Institution <b>CBC / Radio-Canada</b>				Reporting Period / Période visée par le rapport 2009-04-01 to/à 2010-03-31	
Source	Media / Médias 64	Academia / Secteur universitaire 0	Business / Secteur commercial 107	Organization / Organisme 7	Public 69

<b>I</b> Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information	
Received during reporting period / Reçues pendant la période visée par le rapport	247
Outstanding from previous period / En suspens depuis la période antérieure	108
<b>TOTAL</b>	<b>355</b>
Completed during reporting period / Traitées pendant la période visée par le rapport	315
Carried Forward / Reportées	40

<b>II</b> Disposition of requests completed / Disposition à l'égard des demandes traitées			
1. All Disclosed / Communication totale	25	6. Unable to process / Traitement impossible	54
2. Disclosed in part / Communication partielle	144	7. Abandoned by applicant / Abandon de la demande	37
3. Nothing disclosed (excluded) / Aucune communication (exclusion)	54	8. Treated informally / Traitement non officiel	0
4. Nothing disclosed (exempt) / Aucune communication (exemption)	1	<b>TOTAL</b>	<b>315</b>
5. Transferred / Transmission	0		

<b>III</b> Exemptions invoked / Exemptions invoquées							
S. Art. 13(1)(a)	0	S. Art. 16(1)(a)	0	S. Art. 18(b)	62	S. Art. 21(1)(a)	41
(b)	0	(b)	0	(c)	0	(b)	42
(c)	0	(c)	0	(d)	3	(c)	14
(d)	0	(d)	0	S. Art. 19(f)	100	(d)	12
S. Art. 14	0	S. Art. 16(2)	50	S. Art. 20(1)(a)	3	S. Art. 22	4
S. Art. 15(1) International rel. / Relations Intern.	0	S. Art. 16(3)	0	(b)	55	S. Art. 23	25
Defence / Défense	0	S. Art. 17	1	(c)	11	S. Art. 24	0
Subversive activities / Activités subversives	0	S. Art. 18(a)	65	(d)	9	S. Art. 26	1

<b>IV</b> Exclusions cited / Exclusions citées			
S. Art. 68(a)	10	S. Art. 69(1)(c)	0
(b)	0	(d)	0
(c)	0	(e)	0
S. Art. 69(1)(a)	0	(f)	0
(b)	0	(g)	0

<b>V</b> Completion time / Délai de traitement	
30 days or under / 30 jours ou moins	123
31 to 60 days / De 31 à 60 jours	40
61 to 120 days / De 61 à 120 jours	52
121 days or over / 121 jours et plus	100

<b>VI</b> Extensions / Prorogations des délais		
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	0	1
Consultation	0	0
Third party / Tiers	0	0
<b>TOTAL</b>	<b>0</b>	<b>1</b>

<b>VII</b> Translations / Traduction		
Translations requested / Traductions demandées		0
Translations prepared / Traductions préparées	English to French / De l'anglais au français	0
	French to English / Du français à l'anglais	0

<b>VIII</b> Method of access / Méthode de consultation	
Copies given / Copies de l'original	169
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

<b>IX</b> Fees / Frais			
Net fees collected / Frais net perçus			
Application fees / Frais de la demande	\$ 1,005.00	Preparation / Préparation	\$0.00
Reproduction	\$0.00	Computer processing / Traitement informatique	\$0.00
Searching / Recherche	\$ 3,391.20	<b>TOTAL</b>	<b>\$ 4,396.20</b>
Fees waived / Dispense de frais		No. of times / Nombre de fois	\$
\$25.00 or under / 25 \$ ou moins		46	\$230.00
Over \$25.00 / De plus de 25 \$		0	\$0.00

<b>X</b> Costs / Coûts	
Financial (all reasons) / Financiers (raisons)	(\$ 000)
Salary / Traitement	579.65
Administration (O and M) / Administration (fonctionnement et maintien)	123.13
<b>TOTAL</b>	<b>702.78</b>
Person year utilization (all reasons) / Années-personnes utilisées (raisons)	
Person year (decimal format) / Années-personnes (nombre décimal)	7.63

**Annex C – Additional Reporting Requirements for Fiscal Year 2009-2010**



## **Additional Reporting Requirements**

### ***Access to Information Act***

In addition to the reporting requirements addressed in form TBS/SCT 350-62 "Report on the *Access to Information Act*", institutions are required to report on the following using this form:

#### **Part III – Exemptions invoked**

Section 13

Subsection 13(e) \_\_\_\_\_ 0 \_\_\_\_\_

Section 14

Subsections 14(a) \_\_\_\_\_ 0 \_\_\_\_\_

14(b) \_\_\_\_\_ 0 \_\_\_\_\_

#### **Part IV – Exclusions cited:**

Subsection 68.1 (1) \_\_\_\_\_ 94 \_\_\_\_\_ (48 in full, 46 in part) \_\_\_\_\_

Subsection 69.1 (1) \_\_\_\_\_ 0 \_\_\_\_\_