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Backgrounder on Key Changes to Ensure Honest, Fair Canadian Elections (October 28, 2019)

Democracy Watch [testified at the House Committee's hearings on Bill C-76 in June 2018](#) and highlighted all the serious flaws in the bill that are set out below, along with [20 or so other changes needed to ensure fair, democratic elections](#) and strong enforcement – changes that Democracy Watch submitted to the Special Committee on Electoral Reform and to the government in fall 2016.

Democracy Watch's recommendations were almost completely ignored by the Trudeau Liberals, as were the recommendations of many experts, a House Committee (made up of a majority of Liberal MPs), the Chief Electoral Officer, and the Commissioner of Canada Elections.

The key changes needed to ensure honest, fair, democratic federal elections in the future are as follows:

1. To stop secret, fake online election advertising by anyone (not just foreigners)

- a) **Bill C-76 only prohibited big social media companies from knowingly running an ad paid for by a foreigner or foreign entity** (section 190 of the Bill, adding new subsection 282.4(5) to the *CEA*), **and requires them to publish a registry of election-related ads and maintain it for two years** (section 208.1 of the Bill, adding new section 325.1 to the *CEA*). Those measures will do nothing to stop secret, fake online election ads paid for by Canadians or Canadian entities, and will do little to stop foreign-paid ads as the social media companies will just claim they didn't know the ads were paid for by foreigners.

To see details of the key changes needed to actually stop secret, false, online election ads by foreigners and Canadians, [click here](#).

2. To require honesty by everyone during the pre-election and election periods

- a) **Bill C-76 does nothing to strengthen [subsection 282.8\(b\)](#) of the *Canada Elections Act*, which prohibits false election promises by parties and candidates but needs to be strengthened** because the Commissioner of Canada Elections negligently refuses to enforce it. The Commissioner responded to Democracy Watch's [complaint](#) about Liberal Party leader Justin Trudeau baiting voters with his false promise of electoral reform during the 2015 election with a [decision](#) refusing to enforce the rule;
- b) **Bill C-76 also made false claims about candidates legal by narrowing the rule that prohibit false claims, and requiring proof of intent to affect the election ([section 91 of the *Canada Elections Act*](#))**. The current rule prohibits any false claim "in relation to the personal character or conduct of a candidate or prospective candidate." Bill C-76 narrows the rule so it *only* covers false claims that these people (or a party leader or officials) violated the law or have been charged or investigated for a violation, and false claims about the citizenship, place of birth, education, professional qualifications or membership in a group or association of these people. Senators tried to amend Bill C-76 to restore the broader rule but the amendment was rejected.
- c) **The words in section 91 requiring that to charge someone with making a false claim you have to prove they made the claim with the "intention of affecting the results of an election" also must be deleted** because it is almost impossible in many cases that they had that intention (the Chief Electoral Officer and the Commissioner of Canada Elections [both called for this change, and the change summarized above in #2](#), when testifying before the Senate Committee that review Bill C-76).

3. To stop wealthy interests from dominating pre-election and election campaigns

- a) **Bill C-76 [more than doubled the spending limits for third party interest groups](#) and individuals during election campaigns from approximately \$200,000 up to \$500,000** (section 224 of Bill C-76 changing subsections 350(1) to 350(4.1) of the *Canada Elections Act* (CEA)). The Trudeau Cabinet claimed this increase was needed because the spending limit is being extended to cover election surveys and "partisan activities" such as door-knocking, phone calls and rallies. However, only citizen groups do those kinds of activities (businesses usually only spend money on ads), and social media and email have significantly lowered ad costs for third parties. The limit for ad spending should be decreased back to at least \$200,000 (if not lower, an assessment is needed to determine the actual current costs of reaching

- voters across Canada), and new, separate limits should be set for spending on surveys, and spending on partisan activities.
- b) **Bill C-76 also set meaninglessly high limits of \$1.5 million for party ad spending and \$1 million for third-party (interest group) ad spending during the 60-75 days before the election campaign period begins** (section 223 of Bill C-76, adding sections 349.1 to 349.94 to the *CEA*). The pre-election limits are meaningless because, as this past summer proved, it is highly unlikely that any party or third-party will spend anywhere near those amounts during July and August – the only times the limits apply (as the pre-campaign limits only apply when the election is held on the fixed election date of the third Monday in October). As well, the pre-campaign limit only applies to “partisan advertising” that promotes or opposes a party or a candidate, not to issue-based advertising. The limit should be lowered, and extended to cover issue ads.
 - c) **Bill C-76 also didn’t lower the much too high donations limits that allow wealthy people to use money as a way to influence politicians**, including the annual individual donation limits for 2019 of \$1,600 to each party and another \$1,600 to the riding associations of each party (both increase each year by \$25). Bill C-76 also doesn’t lower the \$5,000 amount an election candidate can give to their own campaign or the \$25,000 a party leadership candidate can give to their campaign. To actually have a democratic political finance system, all these limits should be lowered to \$100 and, if the parties can prove they need it, per-vote and matching public funding should be established.

To see details, [click here](#).

4. To protect privacy of voters, and all Canadians

Bill C-76 also didn’t do enough to require political parties to protect the private, personal information they collect about voters, as it only requires that they publish their privacy protection policy on their website (sections 254-255 of the Bill, changing section 385 and adding section 385.1 to the *CEA*) instead of extending federal privacy laws to cover parties.

The House of Commons Access to Information, Privacy and Ethics issued its report in December 2018 on stopping secret, false online election ads, and protecting voters’ privacy, and [recommendations 1-3, 6-8, 10, 19, 22-24](#) match the changes that Democracy Watch has been calling for in these areas.