

Treasury Board’ s pretend review of Canada’ s Access to Information Act is also a waste of money **by [Ken Rubin](#), July 29, 2021**

In the end, the review is a diversion and it's a lopsided, costly effort. It's also an attempt to head off any real, significant disclosure advances.

Treasury Board’s statutory review of Canada’s Access to Information Act is late, has had very little public uptake, and is going to cost taxpayers millions. What’s more, Treasury Board has stacked the deck with many government agencies responding in secret.

The exercise will cost at least a million dollars and likely much more and this is just the first stage. The review employs nine Treasury Board staff clocking in at a half-a-million dollars a year in salaries with the review lasting at least a year-and-a-half. Add in the costs of all government personnel from 100 or more agencies working on restating government access positions at public taxpayer expense and you’ve got yourself an excessively expensive exercise.

One big outside expense is the “engagement” platforms that consultants Hill and Knowlton were hired to help build and manage. According to Treasury Board media relations, H&K have already been paid \$146,889 out of the \$377,446 contract. It’s unclear if other expert consultants were hired by Treasury Board to write submissions and “findings.”

The slow and awkward engagement of the public to date has been limited to requesting submissions and running a few workshops.

Treasury Board media relations noted the following workshop’s low attendance figures (some of the same people have attended more than one workshop): Workshop 1-Right of Access and Scope of the Act: 67 (their website says roughly 75); Workshop 2-Exemptions and Exclusions: 81 (their website says roughly 77); and Workshop 3-Proactive Publication: 35. Another workshop, held on July 28 to discuss delays and consultations, had 50 people pre-registered, including public employees.

To date, Treasury Board’s engagement efforts have only netted a grand total of 17 submissions. Treasury Board has since extended its submission deadline from July 30 to Aug. 15.

Only seven of those submissions are publicly posted and include, as expected, those from the information and privacy commissioners. Two public submissions are from Dean Beeby, an independent journalist, and the organization he’s part of, World Press Freedom Canada.

Ten private submissions remain secret and two are identified by sector, one coming from academia, the other from an Indigenous group. The rest likely come from corporate third parties who usually ask for greater secrecy privileges. There is no word on provincial or territorial submissions being made or surfacing publicly.

The way Treasury Board and their consultants stage-managed the public part of the engagement exercise helps show how Treasury Board views and quantifies access to information.

For instance, it segregates pro-active government disclosures from public access to government records. Would-be participants in the two-hour sessions were asked loaded questions, such as what

opportunities are there for more government published data, and what prioritization should there be to handling whose requests should come first.

The few paragraphs of workshop summaries posted do not reveal heated debate or that the culture of secrecy Treasury Board represents is seriously under attack.

In addition, Treasury Board has now put forward a survey that seems more designed to collect information on access users while not asking many hard questions. Again, expect little participation.

That's not to say those from the public who opted to participate and whose views are public did not make some valid points for reform or that they were uncritical of Treasury Board.

Journalists Dean Beeby, Stanley Tromp, and Justin Ling made a point of asking for fewer exemptions and better order-making powers.

Freelance journalist Justin Ling, in his submission, did state that the Treasury Board exercise is highly suspect and that real reforms could well be ignored. Ling said he sees the exercise as similar to previous official reviews and studies on transparency that have gone nowhere.

Workshop participants Ling, Beeby, University of Ottawa professor Wesley Wark, and Ryerson University institute director Jim Turk, in a July 5, 2021, op-ed in *The Globe and Mail*, ("Canada has an access-to-information system in name only,") asked for yet another government "green paper." But they recognized they are participating in "a public relations exercise" not designed as "a serious effort to improve Canadians' right to access." At least, through the op-ed, some of their citizen-reform positions were presented to a wider public audience.

One public submission from an unidentified access user highlights the act's current state by simply enclosing a one-page, highly redacted record that did not impart information. It reflects the level of exemptions and normal secrecy that Ottawa regularly dishes out.

Stanley Tromp as part of a Canadian Center for Free Expression group will offer a further detailed submission with best practices in Canada and abroad.

Meanwhile, Treasury Board spokespeople confirm they have not last year or this year drafted an access-to-information bill.

But it's the still-secret consultations and submissions from at least 98 government agencies so far, that the public and those other submitters do not get to see, that will likely have the most influence. This separate engagement process with insiders takes government time and money, but what is said or received is not posted on the Treasury Board review team's website.

All these agencies have been guided for years in how to administer the Access to Information Act's provisions by Treasury Board. Many of them are on record as wanting to restrict access users' rights and to preserve and enhance exemptions and exclusions. Their still-secret input will more than likely create an imbalance of any public progressive submissions in the Treasury Board report.

Yet with so little public input, Treasury Board still wants to delay reporting until at least Jan. 31, 2022, with an interim "what-government-heard" report coming first. But that's extra time Treasury Board wants to present government agencies' self-serving "best access practices" positions to counter any of the best reform ideas from public participants. And 2022 likely means it will come after the next election, which makes this costly process even less relevant.

Some transparency advocates, like myself, have wanted a better option: move quickly and straight to public hearings and have the parliamentary committee engage on what's really needed to reform secrecy practices, rather than Treasury Board slowly predetermining what's wanted and acceptable.

Putting Treasury Board in charge of the initial review of its own secrecy and delay problems was never

a good idea. As a key agency to cabinet and to the access administrative community, its past messaging and work has not been to reach out and listen to pleas for greater disclosures that are hardly in its, or the government's interest.

In the end, the review is a diversion and it's a lopsided, costly effort. It's also an attempt to head off any real, significant disclosure advances.

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