

# 2011 FDA Electoral Fairness Audit of the Canadian Federal Electoral System

**Executive Summary:** Canada received a failing overall score of 25.75 percent for electoral fairness. This score means that there is significantly more unfairness in the Canada federal electoral system than fairness. The source of Canada's electoral unfairness is the partiality of the Canadian public and private major media and broadcasters and severe unfairness in the electoral finance laws. The combination of a partisan media and broadcasters and unfair electoral finance laws creates for a significantly unfair electoral system. Though the FDA audit report is restricted to the constitutional and legal basis for Canadian democracy, the report establishes that the foundation of Canadian democracy is bordering on undemocratic.



THE FOUNDATION FOR  
DEMOCRATIC ADVANCEMENT

Electoral Fairness Audit Completed April 17, 2011. Updated July 9, 2011.

## **About the Foundation for Democratic Advancement:**

The Foundation for Democratic Advancement ("FDA")'s mission is to advance fair and transparent democratic processes wherever elections occur. The FDA believes that fairer electoral systems and a more informed public will help ensure the election of candidates who truly represent the will of the people. The FDA fulfills its mission by performing detailed electoral audits on political candidates and parties to inform the public, objectively and impartially, about their electoral choices. Also, the FDA audits electoral legislation in terms of fairness and equity, and conducts ground level assessments of democratic processes. (For more information on the FDA visit: [www.democracychange.com](http://www.democracychange.com))

## **Purpose of Electoral Fairness Audit:**

The purpose of the FDA's electoral fairness audit (the "Audit") is to determine a grade and ranking for electoral fairness in Canada at the federal level of government. (This Audit is part of the FDA's global audit of electoral fairness involving all countries which hold political elections.)

This non-partisan, independent determination aims to give the citizens of Canada an informed, objective perspective of the fairness of the Canadian federal electoral system. The views in this electoral fairness audit are the views of the FDA only. The FDA's members and volunteers are in no way affiliated with Elections Canada or any of the Canadian registered/non-registered political parties.

The Audit represents an independent assessment based on objectivity, transparency and non-partisanship. The FDA assumes no responsibility or liability for any errors in the calculation of its audit results or inaccuracies in its research of relevant Canadian legislation.

## **Methodology for the Electoral Fairness Audit:**

The FDA focuses on four key areas of electoral fairness:

- 1) Laws and regulations on the political content of media including newspapers, broadcasters and online media before, during, and after elections;
- 2) Laws and regulations on the equality of candidates' and parties' influence before, during and after elections, such as national televised debates, restrictions on candidate nominations, party registration requirements, etc.;
- 3) Laws and regulations on electoral finance, such as party and campaign donation limits, third party spending limits etc.; and
- 4) Laws and regulations on the equality of voter say before, during, and after an election. The FDA looked at how Canadian laws and regulations promote equality of voter say in the media, at the polling booth, through electoral finance and constitutional laws etc.

The FDA decided to evaluate these four areas of electoral fairness because, in our opinion, they are often ignored or overlooked by the international community in determining electoral fairness.

Moreover, these four areas cover broad aspects of the electoral process in which fairness could be compromised significantly.

The FDA acknowledges that electoral laws and regulations may not necessarily correspond to the implementation of those laws and regulations or the public's response to them. The implementation and response could be positive or negative, in terms of electoral fairness.

Nevertheless, laws and regulations provide the framework for the electoral system and an indication of electoral fairness. Also, a country's constitution and electoral laws are part of its democratic reality.

A further study which tracks the actions of mainstream media and the enforcement or non-enforcement of electoral laws and regulation, for example, would provide a more reliable overall determination of electoral fairness.

The FDA researched current Canadian legislation, in relation to the four areas of electoral fairness being examined. Following which, the FDA audited the research results via the FDA electoral audit team and established FDA scoring scales for the four areas of electoral fairness.

### **Weighting and Scoring:**

Overall, the FDA scoring is guided by an inherent valuation of the concepts of soundness and relevancy.

Each area of electoral fairness has a score range between 0 and 10, and each area is counted equally. The total averaged score will provide an indication of the level of electoral fairness in Canada.

The FDA electoral audit team deliberated on the research for each area of electoral fairness, and then attempted to reach consensus on the final score. Where no consensus could be reached, the individual scores of the team were averaged.

The final score for each section must be supported by the more sound reasons and correspond to the established FDA scoring scale.

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## **Information Sources:**

The following information was consulted and utilized in this audit report:

*Canadian Broadcaster Act*

*Canadian Charter of Rights and Freedoms*

*Canadian Constitution Act of 1982*

*Canadian Election Act*

Elections Canada

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# Chapter One: Political Content of Media

*Chapter one will focus on the research and audit results of Canadian laws and regulations with respect to the political content of media, including newspapers, broadcasters and on-line media, before, during and after elections.*

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## **Executive Summary:**

Canada received a failing score of 23 percent for equality of political content. The score means that the political content of the media and broadcasters is significantly more unfair than fair. Canadian public and private media and broadcasters can be partisan and provide incomplete and imbalanced electoral coverage. Though there is freedom of expression for all Canadian media and broadcasters, large media and broadcast corporations have an unfair advantage over smaller media corporations and an unfair influence on Canadian electoral discourse.

## **Research Excerpts:**

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

The following are relevant excerpts from the Canadian *Elections Act*:

The broadcasting time must be provided to registered parties.

Section 335(1): In the period beginning on the issue of the writs for a general election and ending at midnight on the day before polling day, every broadcaster shall, subject to the regulations made under the *Broadcasting Act* and the conditions of its license, make available, for purchase by all registered parties for the transmission of political announcements and other programming produced by or on behalf of the registered parties, six and one-half hours of broadcasting time during prime time on its facilities

### *Agreement on Allocation*

Section (2): Unanimous agreement of the registered parties on the allocation of the broadcasting time is binding on all registered parties.

The Broadcasting Arbitrator makes the decision with respect to broadcasting time when no agreement

Section (3): If unanimous agreement is not reached within four weeks after the meeting referred to in Sub-Section 336(1), the Broadcasting Arbitrator shall allocate the broadcasting time, and that allocation is binding on all registered parties.

### *Factors in Allocation*

Section 338(1): Subject to Sub-Sections (3) to (5), in allocating broadcasting time, the Broadcasting Arbitrator shall give equal weight to:

The percentage of seats in the House of Commons held by each of the registered parties at the previous general election; and

The percentage of the popular vote at the previous general election of each registered party.

The Broadcasting Arbitrator shall in addition give half the weight given to each of the factors referred to in Paragraphs (a) and (b) to the number of candidates endorsed by each of the registered parties at the previous general election, expressed as a percentage of all candidates endorsed by all registered parties at that election.

### *Allocation Where a Merger of Parties is Applicable*

Section (2) Subject to Sub-Sections (3) to (5), in allocating broadcasting time in the case of the merger of two or more registered parties, the Broadcasting Arbitrator shall:

In determining the percentage of seats held by a merged party at the previous general election for the purpose of Paragraph (1)(a), include the total number of seats held by the merging parties;

In determining the percentage of the popular vote of a merged party at the previous general election for the purpose of Paragraph (1)(b), include the total number of votes obtained by the merging parties; and

For the purpose of giving the half-weight under Sub-Section (1), assign to the merged party the number of candidates endorsed by the merging party that had the greatest number of candidates at that election.

### *No Allocation of Time in Excess of 50%*

Section (3): In no case shall the Broadcasting Arbitrator allocate more than 50% of the total of the broadcasting time to a registered party.

### *Allocation of Time in Excess of 50%*

Section (4): If the calculation under Sub-Section (1) would give more than 50% of the total of the broadcasting time to a registered party, the Broadcasting Arbitrator shall allocate the excess amount to the other registered parties entitled to broadcasting time on a proportionate basis.

### *Discretion With Respect to Allocation*

Section (5): If the Broadcasting Arbitrator considers that an allocation determined in accordance with Sub-Section (1) would be unfair to a registered party or contrary to the public interest, the allocation may be modified, subject to Sub-Sections (3) and (4), in any manner that the Broadcasting Arbitrator considers appropriate.

#### *Notification of Allocation*

Section (6): The Broadcasting Arbitrator shall, as soon as possible, give notice in writing of every allocation of broadcasting time made by the Broadcasting Arbitrator or by the registered parties to:

Every registered party; and

Every political party that became an eligible party either before or after the allocation.

The notice shall advise an eligible party referred to in Paragraph (b) that it has 30 days after the receipt of the notice to request that broadcasting time be made available to it, for purchase, under Section 339.

#### *New Parties Entitled to Broadcasting Time*

Section 339(1): Subject to Sub-Section (4), every eligible party referred to in Paragraph 338(6)(b) that makes a request as described in Sub-Section 338(6) within the time referred to in that Sub-Section is entitled to purchase broadcasting time in an amount equal to the lesser of;

The smallest portion of broadcasting time to be made available under Section 335 allocated to a registered party under Sections 337 and 338, and

- a) Six minutes.

#### *Parties Not Entitled to Broadcasting Time*

Section (2): An eligible party referred to in Paragraph 338(6)(b) is not entitled to have any broadcasting time made available to it under this Section if the party:

Indicates in writing that it does not wish any broadcasting time under this Section; or

Fails to make a request as described in Sub-Section 338(6) within the time referred to in that Sub-Section.

### *Broadcasting Time to be Provided to New Eligible Parties*

Section (3): In addition to the broadcasting time to be made available under Section 335, and within the period referred to in that Section, every broadcaster shall, subject to the regulations made under the Broadcasting Act and to the conditions of its license, make available, for purchase by every eligible party entitled to broadcasting time under this Section, broadcasting time in the amount determined under this Section for the eligible party for the transmission of political announcements and other programming produced by or on behalf of the eligible party during prime time on that broadcaster's facilities.

### *Maximum Broadcasting Time of 39 Minutes*

Section (4): The maximum amount of broadcasting time available for purchase by eligible parties under this Section is 39 minutes and, once that amount of broadcasting time is reached, all entitlement under this Section shall be altered or established to be of whatever number of minutes or portions of minutes is necessary so that all eligible parties requesting time under this Section receive the same amount of time within the 39-minute limit.

### *Annual Review*

Section 343 (1): In each of the calendar years after the calendar year in which an allocation of broadcasting time has been made under Sections 337 and 338 or an eligible party has requested and has become entitled to broadcasting time under Section 339, the Broadcasting Arbitrator shall convene and chair a meeting of the representatives of all registered parties to review the allocation or entitlement.

### *Reduction to Six and One-Half Hours*

Section (2): If, at a meeting referred to in Sub-Section (1), it is determined that the total broadcasting time allocated or requested exceeds six and one-half hours, the Broadcasting Arbitrator shall reduce the allocated or requested time to six and one-half hours on a proportionate basis and that reduction shall be final and binding on all registered parties and eligible parties.

Commercial time means any period of two minutes or less during which a broadcaster normally presents commercial messages, public service announcements or station or network identification.

Program time means any period longer than two minutes during which a broadcaster does not normally present commercial messages, public service announcements or station or network identification.

### *Notice of Preference by Party*

Section (2): Each registered party and each eligible party entitled to purchase broadcasting time under this Act shall, not later than 10 days after the issue of the writs for a general election, send a notice in writing to each broadcaster and each network operator from whom it intends to purchase broadcasting time, setting out its preference as to the proportion of commercial time and program time to be made available to it and the days on which and the hours during which that time as so proportioned is to be made available, but at no time shall that party obtain broadcasting time before the 5th day after the notice is received by the broadcaster or network operator.

### *Consultation to Reach Agreement*

Section (3): Every broadcaster or network operator who receives a notice under Sub-Section (2) shall, within two days after its receipt, consult with representatives of the registered party or eligible party that sent the notice for the purpose of reaching an agreement on the requests contained in it.

### *When No Agreement Can be Reached*

Section (4): If no agreement is reached under Sub-Section (3) within two days after the commencement of the consultation required by that Sub-Section, the matter shall be referred to the Broadcasting Arbitrator who shall decide on the requests without delay and give notice of his or her decision to the broadcaster or network operator and to the representatives of the registered party or eligible party that made the requests.

### *Factors in Decision*

Section (5): In making a decision under Sub-Section (4), the Broadcasting Arbitrator shall take into account the following principles:

- a) that each registered party and each eligible party should have the freedom and flexibility to determine the proportion of commercial time and program time to be made available to it and the days on which and the hours during which that time as so proportioned should be made available; and
- b) That any broadcasting time to be made available to a registered party or eligible party should be made available fairly throughout prime time.

### *Binding Decision*

Section (6): A decision of the Broadcasting Arbitrator under Sub-Section (4) is final and binding on the registered party or eligible party, as the case may be, and the broadcaster or network

operator.

### *Free Broadcasting Time*

Section 345(1): In the period beginning on the issue of the writs for a general election and ending at midnight on the day before polling day at that election, every network operator shall, subject to the regulations made under the Broadcasting Act and to the conditions of its license, make available, at no cost, to the registered parties and eligible parties referred to in Sub-Section (2), for the transmission of political announcements and other programming produced by or on behalf of those parties, broadcasting time as determined under that Sub-Section if the network formed and operated by the network operator:

Reaches a majority of Canadians whose mother tongue is the same as that in which the network broadcasts;

Is licensed with respect to more than a particular series of programs or type of programming; and

Does not involve a distribution undertaking as defined in Sub-Section 2(1) of the *Broadcasting Act*.

### *Determination of Free Broadcasting Time*

Section (2): For the purpose of Sub-Section (1), the minimum amount of broadcasting time that a network operator is to make available shall be no less than the amount of free broadcasting time made available by it at the last general election and shall be made available as follows:

Two minutes to every registered party referred to in Paragraph 337(1)(a) and every eligible party referred to in Paragraph 339(2)(a); and

The remainder to all registered parties that have been allocated any of the broadcasting time to be made available under Section 335 and all eligible parties that have requested broadcasting time under Section 339 in the proportion that their allocated or requested purchasable broadcasting time bears to the total broadcasting time allocated or requested under those Sections.

### *Determination of Population Reached*

Section (4): For the purpose of Sub-Section (1), a network is deemed to reach:

People resident within the areas served by broadcasting stations affiliated to the network that

In the case of A.M. radio stations, are enclosed by the night-time interference-free official contour of the stations,

In the case of F.M. radio stations, are enclosed by the 50 mV per meter official contour of the stations, and

In the case of television stations, are enclosed by the Grade B official contour of the stations.

People resident outside the areas described in Paragraph (a) to whom the signals of broadcasting stations affiliated to the network are available via distribution undertakings licensed by the Canadian Radiotelevision and Telecommunications Commission.

#### *Broadcasting Arbitrator to Prepare Guidelines*

Section 346: The Broadcasting Arbitrator shall, not later than two days after the issue of the writs for a general election, prepare and send to the Canadian Radio-television and Telecommunications Commission a set of guidelines respecting;

The allocation of or entitlement to broadcasting time under this Act;

The procedures for booking broadcasting time by registered parties and eligible parties; and

Any other matters that may be pertinent to the conduct of broadcasters and network operators under this Act.

#### *C.R.T.C. to Prepare and Send Guidelines*

Section 347: The Canadian Radio-television and Telecommunications Commission shall, not later than four days after the issue of the writs for a general election, prepare a set of guidelines respecting the applicability of the Broadcasting Act and the regulations made under that Act to the conduct of broadcasters and network operators in relation to a general election and send them, together with the set of guidelines sent by the Broadcasting Arbitrator under Section 346, to all broadcasters and network operators.

#### *Prohibition Relating to Rates Charged*

Section 348: No person shall charge a registered party, any other political party or a candidate or a person acting on behalf of any of them;

A rate for broadcasting time made available to the party or candidate, in the period beginning on the issue of the writs and ending at midnight on the day before polling day, that exceeds the lowest rate charged by the person for an equal amount of equivalent time on the same facilities made available to any other person at any time within that period; or

A rate for an advertisement in a periodical publication published or distributed and made public in the period referred to in Paragraph (a) that exceeds the lowest rate charged by the person for

an equal amount of equivalent advertising space in the same issue of the periodical publication or in any other issue of it that is published or distributed and made public in that period.

The following are excerpts from Elections Canada:

*Election Broadcasting*

The media play a crucial role in election campaigns and they are covered by Broadcasters Guidelines and CRTC rules. Each broadcaster must make available up to 396 minutes for political parties to purchase for advertising during the 2008 election campaign. The following table shows the allocated broadcast minutes available for purchase to the various registered parties during the 2000 to 2008 elections.

Election Broadcast Time Allocations (Minutes)				
Party	2008	2006	2004	2000
Absolutely Absurd Party	-	-	6.0	-
Animal Alliance Environmental Voters	8.0	6.0	-	-
Bloc Québécois	37.5	44.5	39.0	40.5
Canada Action Party	9.0	12.5	16.0	14.5
Canadian Alliance	-	-	-	59.5
Christian Heritage Party	9.5	13.0	6.0	14.5
Communist Party	8.5	12.0	15.5	6.0
Conservative Party	95.5	85.0	86.5	-
First People's National Party	8.0	6.0	-	-
Green Party	22.5	25.0	18.5	15.5
Liberal Party	82.5	105.0	120.0	113.0
Libertarian Party	8.0	11.0	-	-
Marijuana Party	9.0	13.5	16.5	6.0
Marxist-Leninist Party	10.0	13.5	16.0	14.5

National Alternative Party	-	-	6.0	-
Natural Law Party	-	-	-	17.0
NeoRhino	8.0	-	-	-
New Democratic Party	45.0	43.5	37.0	40.5
Newfoundland & Labrador First	6.0	-	-	-
Ontario Party of Canada	-	-	6.0	-
People's Political Power Party	6.0	-	-	-
Progressive Canadian Party	9.0	11.5	-	-
Progressive Conservative Party	-	-	-	48.0
Western Block Party	8.0	6.0	-	-
Work Less Party	6.0	-	-	-
Total Broadcast Minutes	396.0	408.0	389.0	389.5

**Table 1: This table sets out the allocation of allotted broadcasting minutes for various Canadian political parties for the 2000, 2004, 2006 and 2008 federal elections.**

There are no restrictions on broadcaster's content, except for Broadcaster General Regulations which are qualitative and vague.

Excerpts from the Canadian *Broadcast Act*

The Canadian broadcasting system should:

Serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada;

Encourage the development of Canadian expression by providing a wide range of programming that reflects Canadian attitudes, opinions, ideas, values and artistic creativity, by displaying Canadian talent in entertainment programming and by offering information and analysis concerning Canada and other countries from a Canadian point of view;

Through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society; and

Be readily adaptable to scientific and technological change.

Each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming:

Each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming, unless the nature of the service provided by the undertaking, such as specialized content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources;

The programming originated by broadcasting undertakings should be of high standard; and

All persons who are licensed to carry on broadcasting undertakings have a responsibility for the programs they broadcast.

The programming provided by the Canadian broadcasting system should:

Be varied and comprehensive, providing a balance of information, enlightenment and entertainment for men, women and children of all ages, interests and tastes;

Be drawn from local, regional, national and international sources;

Include educational and community programs;

Provide a reasonable opportunity for the public to be exposed to the expression of differing views on matters of public concern; and

Include a significant contribution from the Canadian independent production sector.

Educational programming, particularly where provided through the facilities of an independent educational authority, is an integral part of the Canadian broadcasting system. A range of broadcasting services in English and in French shall be extended to all Canadians as resources become available.

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.

The programming provided by the Corporation should:

Be predominantly and distinctively Canadian;

Reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions;

Actively contribute to the flow and exchange of cultural expression;

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;

Strive to be of equivalent quality in English and in French;

Contribute to shared national consciousness and identity;

Be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose, and

Reflect the multicultural and multiracial nature of Canada.

Where any conflict arises between the objectives of the Corporation and the interests of any other broadcasting undertaking of the Canadian broadcasting system, it shall be resolved in the public interest, and where the public interest would be equally served by resolving the conflict in favor of either.

### **Electoral Fairness Audit Results for Media and Broadcasters:**

#### **Score:**

After lengthy deliberation, the FDA electoral fairness audit team could not reach consensus on the score. The individual scores were recorded and averaged, with each score receiving equal weight.

2/10

2/10

2/10

2/10

2/10

2/10

3/10

3/10  
3/10

Total: 21/90

2.3/10

**Rational for Score:**

With the current laws and regulations in place, the Canadian media and broadcasters have free reign to broadcast/publish whatever political content they decide on. There are currently no restrictions on the political content of the media and broadcasters before, during or after an election. There is a blackout period in the Atlantic Provinces prior to the Election Day; however, that is the only evident restriction.

Canadian media and broadcasters can be partisan and provide unbalanced electoral coverage.

The current media laws and regulations favor the dominant Canadian political parties. There are currently 19 political parties running in the federal election; however, the media and broadcasters focus only on the 4 main parties. Furthermore, the media is concentrated in two major companies which likely influence the outcome of an election as a result of the political content they choose to publish/broadcast.

The score of 23 percent reflects the freedom of expression of the Canadian media and severe electoral inequality as a result of that freedom. The electoral inequality applies to political parties and candidates who are not supported by the major media and broadcast networks and voters' views which are dominated by the views of major media and broadcast networks.

## Chapter Two: Candidates' and Parties' Influence

*Chapter two will focus on the research and audit results of Canadian laws and regulations with respect to the equality of candidates and parties' influence before, during and after elections.*

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### **Executive Summary:**

Canada received a failing score of 10 percent for equality of candidate and party influence. The score means that equality of candidate and party influence is bordering on complete unfairness. Canadian public and private major media and broadcasters can be partisan and provide incomplete and imbalanced electoral coverage. Canada's electoral finance laws favor dominant and wealthy candidates and parties. Though there is freedom of expression for Canadian political candidates and parties, the media and finance laws favor significantly dominant candidates and parties. The 10 percent score reflects the freedom of speech, which is canceled out by its extreme application at the expense of political equality and electoral fairness.

### **Research Excerpts:**

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

In allocating broadcasting time, the Broadcasting Arbitrator shall give equal weight to:

The percentage of seats in the House of Commons held by each of the registered parties at the previous general election; and

The percentage of the popular vote at the previous general election of each registered party.

The Broadcasting Arbitrator shall in addition give half the weight given to each of the factors referred to in Paragraphs (a) and (b) to the number of candidates endorsed by each of the registered parties at the previous general election, expressed as a percentage of all candidates endorsed by all registered parties at that election.

The following excerpts are from the Canadian *Broadcasting Act*:

*No Allocation in Excess of 50%*

Section (3): In no case shall the Broadcasting Arbitrator allocate more than 50% of the total of the broadcasting time to a registered party.

*Determination of Free Broadcasting Time*

Section (2): For the purpose of Sub-Section (1), the minimum amount of broadcasting time that a network operator is to make available shall be no less than the amount of free broadcasting time made available by it at the last general election and shall be made available as follows, every broadcaster shall, subject:

To the regulations made under the *Broadcasting Act*; and

To the conditions of its license, make available, for purchase by every eligible party entitled to broadcasting time under this Section, broadcasting time in the amount determined under this Section for the eligible party for the transmission of political announcements and other programming produced by or on behalf of the eligible party during prime time on that broadcaster's facilities.

Two minutes shall be provided to every registered party referred to in Paragraph 337(1)(a) and every eligible party referred to in Paragraph 339(2)(a), and the remainder to all registered parties that have been allocated any of the broadcasting time to be made available under Section 335 and all eligible parties that have requested broadcasting time under Section 339 in the proportion that their allocated or requested purchasable broadcasting time bears to the total broadcasting time allocated or requested under those Sections.

Public electoral events favor dominant parties. There are no regulations of private electoral events, and protocol for public electoral events, such as debates, which favor dominant parties, is vague.

### **Government Subsidies for Top Parties**

In 2008, the Conservative Party earned \$10 million in subsidies, compared to \$7.7 million for the Liberal Party, \$4.9 million for the NDP, \$2.6 million for the Bloc Québécois and \$1.8 million for the Green Party. The current annual allowance, adjusted for inflation, means each party receives just over \$2 (\$2.00 and 0.04¢, to be exact) per valid vote cast in its favor in the October 14, 2008 federal election, the sum of which is paid in four installments.

Sixty percent of the election expenses of candidates are reimbursed, and 50% of election expenses of parties are reimbursed after an election. The 2006 federal election parties' "rebates" were \$27.2 million, and the candidate "rebates" were close to \$25 million.

Government allows larger deductions for political contributions than for charitable donations.

Excerpt from Elections Canada:

**Table 2: The expense limits for the political parties in the 2008 federal elections**

Name of Party	Final Election Expenses Limit
Animal Alliance Environment Voters Party of Canada	\$272,020.62
Bloc Québécois	\$5,066,811.35
Canadian Action Party	\$1,312,843.11
Christian Heritage Party of Canada	\$3,789,711.98
Communist Party of Canada	\$1,599,036.86
Conservative Party of Canada	\$19,999,230.62
First Peoples National Party of Canada	\$291,658.89
Green Party of Canada	\$19,751,412.68
Liberal Party of Canada	\$20,014,302.76
Libertarian Party of Canada	\$1,880,168.34
Marijuana Party	\$537,560.73
Marxist-Leninist Party of Canada	\$4,109,588.81
neorhino.ca	\$481,352.40
New Democratic Party	\$20,063,430.10
Newfoundland and Labrador First Party	\$169,243.46
People's Political Power Party of Canada	\$91,748.49
Progressive Canadian Party	\$706,935.92
Western Block Party	\$76,810.64
Work Less Party	\$64,845.31

## **Electoral Fairness Audit Results for Equality of Candidates and Parties**

### **Score:**

The FDA Electoral Fairness Audit Team reached consensus on a score of 1/10.

### **Rational for Score:**

Freedom of expression is restricted by finance laws which favor significantly the dominant parties.

The unfair electoral expenditure limits reduce significantly the chance of electoral success for small and new political parties.

Only electoral advertising times are restricted. The time restrictions for electoral advertising favor dominant parties.

Electoral advertising does not apply to debates, speeches, interviews, the news, internet, etc. There is currently a free reign in all these realms of electoral advertising.

Public electoral events favor dominant parties. For instance, media networks control who participates in debates; many parties are being excluded from the televised debates.

There are currently no restrictions on political content of the media and broadcasters.

The score of 10 percent is based on the freedom of expression of political candidates and parties, and yet that freedom is offset severely by the partisan Canadian media and broadcast networks, unfair electoral finance laws, unfair administration of national debates, and unfair electoral advertising times. Dominant and wealthy political parties have a severe electoral advantage over small and new political parties.

## Chapter Three: Electoral Finance

*Chapter three will focus on the research and audit results of Canadian laws and regulations with respect to the equality of Canadian laws and regulations with respect to electoral finance.*

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### **Executive Summary:**

Canada received a failing score of 10 percent for electoral finance. The score means that Canadian electoral finance laws are bordering on complete electoral unfairness. Canada's electoral finance laws favor significantly dominate and wealthy candidates and parties. The only elements of equality in the finance laws are limits of third-party electoral spending and no donations by legal entities. However, these elements of fairness are canceled out by severe unfairness in other aspects of the finance laws and the third-party spending limits which favor wealthy citizens and legal entities. Again as in the previous audit sections, political freedom is not balanced with political equality and electoral fairness.

### **Research Excerpts:**

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

The following excerpts are from Canada's *Elections Act*:

#### *Spending Limit*

Section 350 (1): A third party shall not incur election advertising expenses of a total amount of more than \$150,000 during an election period in relation to a general election.

#### *Spending limit: By-Election*

Section (4): A third party shall not incur election advertising expenses of a total amount of more than \$3,000 in a given electoral district during the election period of a by-election.

Spending restrictions favor wealthy parties. As set out in the Supreme Court ruling, *Regina v. Harper*, "... the vast majority of Canadian citizens simply cannot spend \$150,000 nationally or \$3000 in given electoral district."

### **Campaign Donations**

#### *Contribution limits*

Section 405(1): No individual shall make contributions that exceed (a) \$1,000 in total in any calendar year to a particular registered party:

\$1,000 in total in any calendar year to the registered associations, nomination contestants and candidates of a particular registered party;

\$1,000 in total to a candidate for a particular election who is not the candidate of a registered party; and

\$1,000 in total to the leadership contestants in a particular leadership contest.

Only individuals are eligible to make campaign donations.

Section (4): The following contributions shall not be taken into account in calculating contributions for the purposes of Sub-Section (1):

Contributions that do not exceed \$1,000 in total by a nomination contestant or candidate of a registered party out of his or her own funds to his or her own campaign as a nomination contestant or candidate;

Contributions that do not exceed \$1,000 in total by a candidate for a particular election who is not the candidate of a registered party out of his or her own funds to his or her own campaign; and

Contributions that do not exceed \$1,000 in total by a leadership contestant in a particular leadership contest out of his or her own funds to his or her own campaign.

Candidates can contribute only \$1,000 or less to their campaigns.

#### *Limits on Expenditures by Candidates*

The limit is are calculated as follows:

\$2.07 for each of the first 15,000 electors;

\$1.04 for each of the next 10,000 electors; and

\$0.52 for each elector over 25,000.

The Act also provides an adjustment for geographically large electoral districts. If the number of electors per square kilometer of the electoral district is less than 10, the candidate's spending limit is increased by the lesser of \$0.31 per square kilometer or 25% of the amount calculated above.

Finance laws and regulations are restricted to electoral advertising during the 36 day election period.

Finance laws and regulations favor dominant parties as illustrated by the party expenses chart in the research document. For example, in 2008 the Conservative Party had an expense limit of about \$20 million, and the Bloc Québécois had a spending limit of about \$5 million. This is approximately 25% of the Conservatives' expenses.

### *Government Subsidies for Top Parties*

In 2008, the Conservative Party earned \$10 million in subsidies, compared to \$7.7 million for the Liberal Party, \$4.9 million for the NDP, \$2.6 million for the Bloc Québécois Party and \$1.8 million for the Green Party. The current annual allowance, adjusted for inflation, means each party receives just over \$2 (\$2.00 and 0.04¢, to be exact) per valid vote cast in its favor in the October 14, 2008 election, the sum of which is paid in four installments.

Candidates are reimbursed for 60% of their election expenses, and 50% percent of election expenses of parties are reimbursed after an election. The 2006 election parties' "rebates" were \$27.2 million and the candidates' "rebates" were close to \$25 million.

Government allows larger deductions for political contributions than for charitable donations.

Excerpt from Canadian *Elections Act*:

### *Spending Limit*

Section 350(1): A third party shall not incur election advertising expenses of a total amount of more than \$150,000 during an election period in relation to a general election.

### *Spending Limit: Electoral District*

Section (2): Not more than \$3,000 of the total amount referred to in Sub-Section (1) shall be incurred to promote or oppose the election of one or more candidates in a given electoral district, including by:

Naming them;

Showing their likenesses;

Identifying them by their respective political affiliations; or

Taking a position on an issue with which they are particularly associated.

## Expenses Regarding Party Leader

Section (3): The limit set out in Sub-Section (2) only applies to an amount incurred with respect to a leader of a registered party or eligible party to the extent that it is incurred to promote or oppose his or her election in a given electoral district.

## Spending Limit: By-Election:

Section (4): A third party shall not incur election advertising expenses of a total amount of more than \$3,000 in a given electoral district during the election period of a by-election.

## *Third Party Inflation Adjustment Factor*

Section (5): The amounts referred to in Sub-Sections (1), (2) and (4) shall be multiplied by the inflation adjustment factor referred to in Section 414 that is in effect on the issue of the writ or writs.

## *No Combination to Exceed Limit*

Section (351): A third party shall not circumvent, or attempt to circumvent, a limit set out in Section 350 in any manner, including by splitting itself into two or more third parties for the purpose of circumventing the limit or acting in collusion with another third party so that their combined election advertising expenses exceed the limit.

## *Advertising Must Name Third Party*

Section (352): A third party shall identify itself in any election advertising placed by it and indicate that it has authorized the advertising.

## *Registration Requirement for Third Parties*

Section (353)(1): A third party shall register immediately after having incurred election advertising expenses of a total amount of \$500 and may not register before the issue of the writ.

## *Authorization by Financial Agent for Expenses*

Section (357)(1): Every contribution made during an election period to a registered third party for election advertising purposes must be accepted by, and every election advertising expense incurred on behalf of a third party must be authorized by, its financial agent.

## *Delegation*

Section (2): A financial agent may authorize a person to accept contributions or incur election

advertising expenses, but that authorization does not limit the responsibility of the financial agent.

#### *Prohibited Use of Certain Contributions*

Section (3): No third party shall use a contribution for election advertising if the third party does not know the name and address of the contributor or is otherwise unable to determine within which class of contributor referred to in Sub-Section 359(6) they fall.

#### *Prohibition: Use of Foreign Contributions*

Section (358): No third party shall use a contribution for election advertising purposes if the contribution is from:

A person who is not a Canadian citizen or a permanent resident within the meaning of Sub-Section 2(1) of the *Immigration and Refugee Protection Act*;

A corporation or an association that does not carry on business in Canada;

A trade union that does not hold bargaining rights for employees in Canada;

A foreign political party; or

A foreign government or an agent of one.

#### *Contributions*

Section (4): The election advertising report shall include:

The amount, by class of contributor, of contributions for election advertising purposes that were received in the period beginning six months before the issue of the writ and ending on polling day;

For each contributor who made contributions of a total amount of more than \$200 for election advertising purposes during the period referred to in Paragraph (a), subject to Paragraph (c), their name, address and class, and the amount and date of each contribution;

In the case of a numbered company that is a contributor referred to in Paragraph (b), the name of the chief executive officer or president of that company; and

The amount, other than an amount of a contribution referred to in Paragraph (a) that was paid out of the third party's own funds for election advertising expenses.

### *Loans*

Section (5): For the purpose of Sub-Section (4), a contribution includes loans.

### *Categories*

Section (6): For the purposes of Paragraphs (4)(a) and (b), the following are the classes of contributor:

Individuals;

Businesses;

Commercial organizations;

Governments;

Trade unions;

Corporations without share capital other than trade unions; and

Unincorporated organizations or associations other than trade unions.

### *Ineligible Contributors*

Section 404(1): No person or entity other than an individual who is a citizen or permanent resident as defined in Sub-Section 2(1) of the *Immigration and Refugee Protection Act* shall make a contribution to a registered party, a registered association, a candidate, a leadership contestant or a nomination contestant.

### *Contribution Limits*

Section 405(1): No individual shall make contributions that exceed:

\$1,000 in total in any calendar year to a particular registered party;

\$1,000 in total in any calendar year to the registered associations, nomination contestants and candidates of a particular registered party;

\$1,000 in total to a candidate for a particular election who is not the candidate of a registered party; and

\$1,000 in total to the leadership contestants in a particular leadership contest.

### *Exception*

Section (2): Sub-Section (1) does not apply to contributions that are made by way of an unconditional, non-discretionary testamentary disposition.

### *Attribution of Certain Contributions*

Section (3): For the purposes of Sub-Section (1), a contribution to a person who presents himself or herself as seeking the endorsement of a particular registered party shall be treated as a contribution referred to in Paragraph (1)(b) to a candidate of that party and a contribution to a person who presents himself or herself as seeking to be a candidate not endorsed by any registered party shall be treated as a contribution referred to in Paragraph (1)(c).

### *Exception: Certain Contributions to Own Campaign*

Section (4): The following contributions shall not be taken into account in calculating contributions for the purposes of Sub-Section (1):

Contributions that do not exceed \$1,000 in total by a nomination contestant or candidate of a registered party out of his or her own funds to his or her own campaign as a nomination contestant or candidate;

Contributions that do not exceed \$1,000 in total by a candidate for a particular election who is not the candidate of a registered party out of his or her own funds to his or her own campaign; and

Contributions that do not exceed \$1,000 in total by a leadership contestant in a particular leadership contest out of his or her own funds to his or her own campaign.

### *Deemed to be Contributions*

Section (5): For the purposes of this Act, contributions made to a leadership contestant within 18 months after a leadership contest are deemed to be contributions for that contest.

### *Prohibition: Accepting Excessive Contributions*

Section (3): No person who is permitted to accept contributions under this Act shall knowingly accept a contribution that exceeds a limit under this Act.

### *Ineligible Contributors*

Section (404)(1): No person or entity other than an individual who is a citizen or permanent resident as defined in Sub-Section 2(1) of the *Immigration and Refugee Protection Act* shall

make a contribution to a registered party, a registered association, a candidate, a leadership contestant or a nomination contestant.

*Prohibition: Paying Electoral Expenses*

Section (4): No person or entity, other than the official agent of a candidate, shall pay expenses in relation to the candidate's electoral campaign except for petty expenses referred to in Section 411 and the candidate's personal expenses.

Excerpt from Elections Canada:

**Table 3: The expense limits for the political parties in the 2008 federal elections**

Name of Party	Final Election Expenses Limit
Animal Alliance Environment Voters Party of Canada	\$272,020.62
Bloc Québécois	\$5,066,811.35
Canadian Action Party	\$1,312,843.11
Christian Heritage Party of Canada	\$3,789,711.98
Communist Party of Canada	\$1,599,036.86
Conservative Party of Canada	\$19,999,230.62
First Peoples National Party of Canada	\$291,658.89
Green Party of Canada	\$19,751,412.68
Liberal Party of Canada	\$20,014,302.76
Libertarian Party of Canada	\$1,880,168.34
Marijuana Party	\$537,560.73
Marxist-Leninist Party of Canada	\$4,109,588.81
neorhino.ca	\$481,352.40
New Democratic Party	\$20,063,430.10
Newfoundland and Labrador First Party	\$169,243.46
People's Political Power Party of Canada	\$91,748.49

Progressive Canadian Party	\$706,935.92
Western Block Party	\$76,810.64
Work Less Party	\$64,845.31

Excerpts from the Canada *Elections Act*:

## DISCLAIMER

These information sheets set out Elections Canada's current interpretation of the Canada *Elections Act* and are issued to assist the public in understanding the Act. The views expressed in information sheets are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Canada reserves the right to reconsider any interpretations expressed in information sheets, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.

### *Limits on Contributions by Individuals*

Only individuals who are Canadian citizens or permanent residents may make contributions to registered parties, their registered electoral district associations, leadership and nomination contestants, or to any candidate.

No individual may make contributions that exceed the following limits.

### *Contributions to the Various Political Entities of a Registered Party Group*

Section (2.1): An individual may make contributions that do not exceed a total of \$1,000 (adjusted for inflation annually) in a calendar year to each registered party.

Section (2.2): An individual may also make contributions that do not exceed a total of \$1,000 (adjusted for inflation annually) in a calendar year to the registered associations, candidates and nomination contestants of each registered party.

This \$1,000 may be given to one registered association, candidate or nomination contestant of a particular registered party or it may be divided among any number of these entities within that party. This is an aggregate cap applying to the total of all contributions given by an individual in that year to all of the registered associations, candidates and nomination contestants of a particular registered party.

There is a separate cap for each registered party. Thus, if a contributor wishes to support more than one registered party's registered associations, nomination contestants or candidates, he or

she may give a maximum of \$1,000 per year to these entities of each registered party he or she wishes to support.

So long as no fraud is involved, any contribution made to a person who presents himself or herself as seeking the endorsement of a particular registered party is treated as a contribution to a candidate or nomination contestant (as the case may be) of that registered party and must be included in any contribution calculations for that registered party's registered associations, nomination contestants or candidates.

#### *Contributions to Candidates Who Are Not Candidates of a Registered Party*

Section (2.3): Individuals may also make contributions that do not exceed \$1,000 (adjusted for inflation annually) per election to a candidate who is not a candidate of a registered party.

Unlike contributions to a registered party or to its candidates, nomination contestants and registered associations, the cap on contributions to candidates who are not candidates of a registered party applies to all contributions given to a candidate for a particular election. Thus, in calculating how much one has given to a candidate, one includes all the contributions given to that candidate over a number of years for a specific election.

Contributors who wish to support more than one candidate who is not a candidate of a registered party may give a maximum of \$1,000 (adjusted for inflation annually) per election to each candidate.

So long as fraud is not involved, any contribution made to a person who presents him/herself or herself as seeking to be a candidate who is not endorsed by a registered party is treated as a contribution to that person as a candidate who is not of a registered party.

#### *Determining the Election Against Which a Contribution Should Be Counted*

A contribution given to a candidate who is not a candidate of a registered party is treated as a contribution for the election in which the candidate is running (if an election is underway) or, if no election is underway, the next election in which the candidate runs. Once that election has been called, all contributions given to that candidate up to the time when all the statutory duties of the candidate arising out of the election have been completed and the candidate's campaign account has been closed are treated as being for that election.

#### *Contributions to a Leadership Contestant*

Section (2.4): Individuals may also give contributions that do not exceed \$1,000 (adjusted for inflation annually) in total per contest to the leadership contestants of a registered party in a particular leadership contest.

This is an aggregate cap applying to all the contributions given by one individual to all leadership contestants in the same leadership contest. A contributor may give up to \$1,000 divided as he or she wishes among all the contestants in the same contest.

Similar to contributions to candidates who are not endorsed by a registered party, the cap on contributions to persons seeking the leadership of a registered party is calculated on the basis of one contest. Thus, in calculating how much one has given to a leadership contestant (or all of the contestants in the same contest), one includes all the contributions given over a number of years for a specific leadership contest.

#### *Determining the Leadership Contest Against Which a Contribution Should Be Counted*

A contribution given to a leadership contestant is treated as a contribution for the leadership contest in which the contestant is then running, or if there is no contest underway, for the next leadership contest in which the contestant runs.

Contributions made to a leadership contestant within 18 months after a leadership contest are treated as contributions for that contest.

#### *Making Contributions to Your Own Campaign*

A higher cap applies to leadership contestants, nomination contestants or candidates who wish to make contributions to their own campaigns out of their own funds.

Section (3.1): In addition to the contributions which he or she may make as an individual, a person may donate extra money out of his or her own funds to his or her own campaign as either a candidate for a registered party or a nomination contestant. The total extra contributions made to his or her candidacy and nomination campaign accounts may not exceed \$1,000 per election.

Section (3.2): Similarly, the first \$1,000 that a candidate who is not of a registered party makes to his or her own campaign out of his or her funds is not counted towards his or her contribution cap.

Section (3.3): And, the first \$1,000 that a leadership contestant of a registered party makes to his or her campaign out of his or her own funds is not counted towards his or her contribution cap.

Even though such contributions need not be included in calculating one's contribution cap, they must, nonetheless, still be reported as a contribution by the political recipient.

### *Contributions Made by Will*

None of the above caps apply to contributions made in a will, provided that that testamentary gift is unconditional and non-discretionary.

### *Cash Contributions*

Individuals may not make a particular contribution in cash of more than \$20.

### *Inflation Adjustment*

What are the election expenses limits, and how are they calculated?

Candidates:

A candidate's election expenses limit is the maximum amount of money that he or she is allowed to spend in an election campaign. The amount will vary from one electoral district to another, based on a formula set out in the *Canada Elections Act*. The Chief Electoral Officer calculates the limit for each electoral district, as follows:

**Step 1:** Spending limits are initially based on the number of names appearing on the preliminary lists of electors or on the revised lists of electors for the electoral district, whichever is greater. The Chief Electoral Officer publishes in the *Canada Gazette* not later than the 31st day before Election Day the number of names on the preliminary lists of electors, and no later than the 7th day before Election Day the number of names on the revised lists of electors. The limit is then calculated at:

\$2.07 for each of the first 15,000 electors;

\$1.04 for each of the next 10,000 electors; and

\$0.52 for each elector over 25,000

**Step 2:** The Act provides for an adjustment for candidates running in electoral districts where there are fewer electors than the national average. For the financial calculation in step 1, the number of electors is deemed to be halfway between the number on the preliminary lists for the electoral district and the average number on all preliminary lists.

**Step 3:** The Act also provides an adjustment for geographically large electoral districts. If the number of electors per square kilometer of the electoral district is less than 10, the candidate's spending limit is increased by the lesser of \$0.31 per square kilometer or 25% of the amount calculated in Step 1.

**Step 4:** The limits are then adjusted by the inflation adjustment factor in effect on the day of the issue of the writs for the election.

Registered Parties:

The maximum amount that is allowed for the election expenses of a registered party for an election is calculated in two steps:

**Step 1:** Multiply \$0.70 by the number of names on the preliminary lists of electors for electoral districts in which the registered party has endorsed a candidate or by the number of names on the revised lists of electors for those electoral districts, whichever is greater.

**Step 2:** Multiply the result of step 1 by the inflation adjustment factor that is in effect on the day of the issue of the writs for the election.

### **Electoral Fairness Audit Results for Election Finance:**

**Score:**

The FDA electoral fairness audit team reached consensus on a score of 1/10.

**Rational for Score:**

A third-party is allowed to spend only \$150,000 nationally and \$3000 in a electoral district. These limits favor wealthy individuals, corporations and unions. Moreover, the spending limits only apply during the 36 election period. There are no spending limits for third-parties outside of that period.

A candidate may not contribute more than \$1,000 to their own campaign. This limit supports electoral fairness by not allowing a wealthy candidate to have an unfair advantage.

Political parties' expenditure limits favor larger, wealthier parties.

Government subsidies are based on the previous federal election results, and thereby favor significantly dominant political parties.

The score of 10 percent is based on an element of fairness from the existence of spending limits, and yet this fairness is offset significantly by finance laws which favor wealthy citizens and dominate parties. Also, the brief application of the spending limits such as third-party spending limits applicable only during the 36 day election period, means that in other times there is unlimited electoral related spending.

## Chapter Four: Voter Say

*Chapter four will focus on the research and audit results of Canadian laws and regulations with respect to the equality of voter say laws and regulations before, during and after an election.*

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### **Executive Summary:**

Canada received a satisfactory score of 60 percent for equality of voter say. The score means that there is more fairness than unfairness in the voter say. Canadian voters have the freedom to express themselves politically. However, the partisanship of the Canadian major media and broadcasters overshadows that freedom through dominance of electoral discourse, just as the unfairness of the electoral finance laws does through favoring dominant and wealthy candidates and parties and wealthy voters and legal entities. The 60 percent score reflects the power of social networking in which a voter with minimal means can have far greater say than without the networking.

### **Research Excerpts:**

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

Excerpt from the Canadian *Election Act*:

#### *Spending Limit*

Section 350(1): A third party shall not incur election advertising expenses of a total amount of more than \$150,000 during an election period in relation to a general election.

#### *Spending Limit: Electoral District*

Section (2): Not more than \$3,000 of the total amount referred to in Sub-Section (1) shall be incurred to promote or oppose the election of one or more candidates in a given electoral district, including by;

Naming them;

Showing their likenesses;

Identifying them by their respective political affiliations; or

Taking a position on an issue with which they are particularly associated.

### *Expenses Regarding Party Leaders*

Section (3): The limit set out in Sub-Section (2) only applies to an amount incurred with respect to a leader of a registered party or eligible party to the extent that it is incurred to promote or oppose his or her election in a given electoral district.

### *Spending Limit: By-Election*

Section (4): A third party shall not incur election advertising expenses of a total amount of more than \$3,000 in a given electoral district during the election period of a by-election.

### *Third Party Inflation Adjustment Factor*

Section (5): The amounts referred to in Sub-Sections (1), (2) and (4) shall be multiplied by the inflation adjustment factor referred to in Section 414 that is in effect on the issue of the writ or writs.

### *No Combination to Exceed Limit*

Section (351): A third party shall not circumvent, or attempt to circumvent, a limit set out in Section 350 in any manner, including by splitting itself into two or more third parties for the purpose of circumventing the limit or acting in collusion with another third party so that their combined election advertising expenses exceed the limit.

### *Advertising Must Name Third Party*

Section (352) A third party shall identify itself in any election advertising placed by it and indicate that it has authorized the advertising.

### *Registration Requirement for Third Parties*

Section (353)(1): A third party shall register immediately after having incurred election advertising expenses of a total amount of \$500 and may not register before the issue of the writ.

### *Application for Registration*

Section (357)(1): Every contribution made during an election period to a registered third party for election advertising purposes must be accepted by, and every election advertising expense incurred on behalf of a third party must be authorized by, its financial agent.

Excerpt from the Canadian *Charter of Rights and Freedoms*:

### *Democratic Rights of Citizens*

Section (3): Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

#### *Maximum Duration of Legislative Bodies*

Section (4)(1): No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs of a general election of its members.

#### *Continuation in Special Circumstances*

Section (2): In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.

#### *Annual Sitting of Legislative Bodies*

Section (5): There shall be a sitting of Parliament and of each legislature at least once every twelve months.

#### *Fundamental Freedoms*

Section (2): Everyone has the following fundamental freedoms:

Freedom of conscience and religion;

Freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

Freedom of peaceful assembly; and

Freedom of association

The Canadian *Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

## **Electoral Fairness Audit Results for Equality of Voter Say:**

### **Score:**

The FDA Electoral Fairness Audit Team reached consensus on a score of 6/10.

### **Rational for Score:**

Third-party spending limits only during the 36 day election period.

The third-party spending limits favor wealthy individuals and corporations and unions.

There are no restrictions on the political content of media and broadcasters before, during, and after an election.

Voters with greater access to the media and broadcasters will have more say than those voters who do not.

The score of 60 percent is based on freedom of expression of Canadian voters, while at the same time the inequality of the voter say. The FDA audit team determined that the freedom of expression outweighs marginally the inequality of voter say.

## Chapter Five: Audit Results

*Chapter five will set out the FDA's scores for each of the areas of the Canadian electoral system as set out above .*

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Research and audit results for Canadian laws and regulations on the political content of media including: newspapers, broadcasters, online media, before, during, and after elections.

2.3/10

Research and audit results for Canadian laws and regulations on the equality of candidates and parties influence before, during and after elections.

1/10

Research and audit results for Canadian laws and regulations, with respect to electoral finance.

1/10

Research and audit results for laws and regulations on the equality of voter say before, during, and after an election.

6/10

**Total Score: 10.3/40 (25.75 percent)**

## Chapter Six: Analysis

*Chapter six will provide a brief analysis of the FDA's findings.*

---

Canada received an overall failing grade for electoral fairness of 25.75 percent. The score means that there is significantly more electoral unfairness in Canada than electoral fairness.

Canada's only passing grade was 60 percent for equality of voter say. This score is an unacceptable level whereby there is prevalent inequality of voter say (despite more equality than inequality).

Canada's scores for electoral finance and equality of candidate and party influence were 10 percent. This score is bordering on fully unequal electoral finance and fully unequal candidate and party influence.

Canada's score of 23 percent for equality of political content of the media and broadcasters means that there is significantly more inequality of political content in the Canadian media than there is equality of political content.

## Chapter Seven: Conclusion

*Chapter seven will provide a summary of the FDA's findings.*

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Canada's overall score of 25.75 percent for electoral fairness means that Canada's electoral system is significantly more unfair than fair.

In consideration of the research and findings, the source of the electoral unfairness is severe inequality in the media, and severe favoring of candidates and parties which were successful in the previous election and larger, wealthier parties. The success in the previous election and control of the media are mutually reinforcing forces. It should be noted that in principal, a person who wins for example a marathon, is not given a significant head start in the next marathon simply because he won the previous one. He starts at the same place as the other competitors. In Canada's electoral system, candidates and parties successful in the previous election are given inexplicably a very significant head start or advantage in the next election and throughout the election process in general.

For instance, in contrast to Egypt (under Mubarak), which received a 0 percent overall score for electoral fairness, and Tunisia (under Ben Ali) which received a 10 percent overall score, Canada is only 15.75 percent to 25.75 percent better than Egypt and Tunisia. Yet Canada is still significantly in the failing zone for electoral fairness; (a passing grade is 50 percent). Moreover, in Egypt and Tunisia, the source of electoral unfairness stems from state control, whereas in Canada, the source of electoral unfairness stems from media dominance and favoring of dominant parties.

To put Canada's failing score into further perspective, Venezuela received an overall score of 85 percent for electoral fairness. This score means that the Venezuelan electoral system is exceptionally fair, while Canada's electoral system, as mentioned, is significantly more unfair than fair.

The source of Canada's failing grade for electoral fairness stems likely from the fact that the majority of the Parliament determines the election laws, and the majority of Canada's parliamentarians have the support of Canada's mainstream media and broadcasters. Basically and inexplicably, the majority of Canada's federal politicians are making the rules of their own game. It is a self-perpetuating system favoring particular political parties who have the support of the mainstream media, in a never ending cycle of electoral unfairness.

## Chapter Eight: Recommendations

*Chapter eight will set out the FDA's recommendations on how Canada can improve its electoral fairness score and thereby its electoral fairness.*

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- 1) The majority of federal politicians must cease to determine the federal election laws.
- 2) An independent, non-partisan citizen based committee made up of the diverse regions of Canada must determine the federal election laws. Such laws must be consistent with the Canadian *Constitution* and the Canadian *Charter of Rights and Freedoms*.
- 3) The Canadian mainstream media and broadcasters, three months prior to an election period and during it, are to be required to present an equality of non-partisan political content of all registered political parties.
- 4) No registered political party is to be given an unequal advantage prior to, during, and after an election. All registered political parties begin an election from the same starting place in terms of finances and media access, and throughout the campaign.

The FDA believes that electoral fairness is at the heart of pure democracy. The more fair electorally a country is, the more democratic the country will be.

Therefore, the FDA believes that by improving electoral fairness, pure democracy in Canada will be advanced which in turn will improve the status of Canadians as a whole.