

e-document	T-616-25-ID 1
I S S U E D	FEDERAL COURT COUR FÉDÉRALE  February 24, 2025 24 février 2025
	OTT
	1

Court File No:

## FEDERAL COURT

B E T W E E N:

CANADIAN TAXPAYERS FEDERATION  
AND RYAN THORPE

Applicants

- and -

CANADIAN BROADCASTING CORPORATION

Respondent

APPLICATION PURSUANT to s. 41(1) of the *Access to Information Act*,  
RSC 1985, c A-1

## NOTICE OF APPLICATION

TO THE RESPONDENT.

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Ottawa.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the [Federal Courts Rules](#) and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the [\*Federal Courts Rules\*](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date \_\_\_\_\_ Issued by \_\_\_\_\_  
Registry Officer

Address of 90 Sparks Street  
court office: Ottawa, ON K1P 5A5c

TO: **CANADIAN BROADCASTING CORPORATION**  
Ottawa Production Centre (Head Office)  
Legal Services  
181 Queen Street  
Ottawa ON K1P 1K9

AND TO: **ATTORNEY GENERAL OF CANADA**  
Civil Litigation Section  
Department of Justice Canada  
50 O'Connor Street, 5th Floor  
Ottawa, Ontario K1A 0H8

Telephone: 613-670-6214  
Fax: 613-954-1920

AND TO: **INFORMATION COMMISSIONER OF CANADA**  
Office of the Information Commissioner of Canada  
30 Victoria Street  
Gatineau, QC K1A 1H3

## APPLICATION

### Overview

1. The Canadian Taxpayers Federation and Ryan Thorpe (collectively, the “**Applicants**”), requested records from the Respondent, the Canadian Broadcasting Corporation (“**CBC**”), under section 6 of the *Access to Information Act*, RSC 1985, c A-1 (the “**Act**”). The requested records relate to CBC’s aggregate annual advertising expenditures (the “**Requested Records**”, as hereinafter described).
2. The CBC issued a decision (the “**Decision**”, as hereinafter described) redacting and/or withholding portions of the Requested Records under paragraph 18(b) of the Act (the “**Exemption**”) which provides:

#### **Economic interests of Canada**

18 The head of a government institution may refuse to disclose any record requested under this Part that contains [...]

(b) information the disclosure of which could reasonably be expected to prejudice the competitive position of a government institution or to interfere with contractual or other negotiations of a government institution;

3. The Applicants seek judicial review under section 41(1) of the Act, submitting that the Exemption was improperly applied and that the Requested Records should be disclosed in full.

### **Relief Sought**

4. The Applicants seek an order:

- (a) Declaring that the CBC improperly applied the Exemption;
- (b) Quashing the Decision;
- (c) Ordering the CBC to disclose the Requested Records in full, without redactions; and
- (d) Such further and other relief as may be requested and as this Honourable Court may deem just.

### **Grounds for the Application**

#### **Applicants**

5. The Canadian Taxpayers Federation (“**CTF**”), is a federally incorporated, not-for-profit citizen’s group dedicated to advocating for lower taxes, reduced government waste, and more accountable government.

6. Ryan Thorpe is an investigative journalist employed by and, at all material times, acting on behalf of the CTF.

#### **The Decision Under Review**

7. On January 26, 2024, the Applicants filed a request (the “**Request**”) to the CBC seeking the disclosure of the following records (the aforementioned “**Requested Records**”):

Please provide documentation showing CBC’s annual spending on advertising during the calendar years of 2020, 2021, 2022, and 2023.

8. On March 6, 2024, the CBC informed the Applicants that internal consultations were required, extending the response deadline for the Request by 10 days under paragraph 9(1)(b) of the Act.

9. On March 15, 2024, the CBC issued its decision (the aforementioned “**Decision**”) to provide copies of the Requested Records which were almost entirely redacted and severed pursuant to the Exemption.

10. On March 18, 2024, the Applicants filed a complaint with the Office of the Information Commissioner of Canada (the “**OIC**”), asserting that the Exemption was improperly applied.

11. On January 14, 2025, the OIC released a report supporting the CBC's position (OIC File Number 5823-04869).

12. Having exhausted all administrative recourse, the Applicants now seek judicial review of the Decision.

### **The Decision is Incorrect and Unreasonable**

13. The Decision to apply the Exemption to the Requested Records is incorrect and/or unreasonable on the following grounds:

- (a) **Aggregate advertising expenditures do not reveal sensitive competitive information.** Disclosure would provide only a general

overview of CBC's budget allocation, not specific strategies, proprietary data, or confidential negotiations.

(b) **The alleged harm is speculative.** The CBC has not established a well-founded expectation of harm. Aggregate financial data lacks the specificity needed to prejudice CBC's competitive position or interfere with contractual negotiations.

(c) **The public interest in transparency outweighs any speculative harm.** The CBC did not reasonably withhold its discretion in deciding to withhold exempt information. As a publicly funded broadcaster, the CBC is accountable to taxpayers. Disclosure of its advertising expenditures allows the public to assess whether public funds are being used efficiently and responsibly. Parliament did not intend for paragraph 18(b) to shield government institutions from legitimate public scrutiny, particularly when the requested information pertains to budgetary allocations rather than proprietary business strategies.

(d) **Failure to disclosure the Requested Records is a violation of the Applicants' S.2(b) Charter Right.** Freedom of expression protected under section 2(b) of the *Canadian Charter of Rights and Freedoms* includes the right to receive information in circumstances where access to that information is necessary for meaningful public debate and accountability in a democracy. The Requested Records are necessary for the Applicants,

and the broader public, to scrutinize government spending and policy decisions. A refusal to produce the Requested Records undermines democratic accountability and violates the Applicants' *Charter* right.

## **Rules and Provisions**

14. The Applicants rely on the following statutory provisions:

- (a) Sections 6, 9, 18, and 41 of the *Access to Information Act*, RSC 1985, c A-1.;
- (b) *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.;
- (c) *Federal Courts Act*, R.S.C. 1985, c F-7.;
- (d) *Federal Court Rules*, SOR/98-106; and
- (e) Such further and other grounds as counsel may advise and this Honourable Court may deem just.

## **Supporting Material**

15. This application will be supported by the following material:

- (a) The Affidavit of Ryan Thorpe, to be sworn;



- (b) Such further and other documentary evidence as counsel may advise and this Honourable Court permits.

Dated the 21st day of February, 2025



Devin Drover

**CANADIAN TAXPAYERS FEDERATION**

68 Green Acre Dr  
St. John's NL, A1H 1C2

**Devin Drover** (LSNL #1946)  
Email: [ddrover@taxpayer.com](mailto:ddrover@taxpayer.com)  
Tel: 709.222.9092

**Counsel for the Applicants**