



Information  
Commissioner  
of Canada

Commissaire  
à l'information  
du Canada



# Report Cards 2011–2012

A Special Report to Parliament by  
**Suzanne Legault**  
Information Commissioner of Canada  
December 2012

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©Minister of Public Works and Government Services Canada 2012  
Cat. No. IP1-3/2012E-PDF  
ISBN 1928-9391



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December 2012

The Honourable Noel A. Kinsella, Senator  
The Speaker  
Senate  
Ottawa ON K1A 0A6

Dear Mr. Kinsella:

Pursuant to section 39 of the *Access to Information Act*, I have the honour to submit to Parliament a special report containing the results of the 2011–2012 report card exercise.

This is my final report stemming from a three-year study focusing on delays in responding to access to information requests. It is part of my office's ongoing work to guide institutions towards improving the timeliness of their responses to requests and compliance with the Act.

This report confirms that strong institutional leadership is the key factor in successful performance, and that vigorous oversight will result in continuous improvement of the access to information system.

Sincerely,

Suzanne Legault  
Information Commissioner of Canada



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December 2012

The Honourable Andrew Scheer, M.P.  
The Speaker  
House of Commons  
Ottawa ON K1A 0A6

Dear Mr. Scheer:

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Suzanne Legault  
Information Commissioner of Canada

# Contents

Message from the Commissioner .....	2
Introduction .....	3
1. Ensuring continuous improvement .....	4
2. Report cards .....	8
Canada Post Corporation .....	9
Canadian Broadcasting Corporation .....	15
Appendix A: How the OIC determined the rating for each institution .....	21

# Message from the Commissioner



With this report, I present the closing chapter of a three-year study to review and assess the root causes of delay in the access to information system. In the wake of my 2009–2010 special report, I undertook to revisit two years later the two institutions—the Canada Post Corporation and Canadian Broadcasting Corporation (CBC)—that did not receive a passing grade that year to measure their progress in implementing my recommendations.

What these two latest report cards demonstrate, in stark terms, is the difference that leadership and engagement can make in addressing issues of delay in the system. In just two years, senior management at the CBC transformed that organization into one committed to meeting its obligations under the *Access to Information Act*. The same cannot, unfortunately, be said of the Canada Post Corporation, which continues to struggle.

While I have observed and reported on measurable improvement across the system in my last two special reports, I recognize that the system is still fragile. Overall performance is far from the best levels we saw in 2002–2003, when institutions responded to 69 percent of all requests in 30 days or fewer. It would not take much to undo the good work some institutions have done recently, particularly in light of budgetary cutbacks and competing priorities.

There is, therefore, a need to maintain continued vigilance so that these modest improvements are not lost and the time it takes to receive a response to an access request continues to improve. An important recommendation in my May 2012 special report was that institutions report on their progress

implementing my recommendations in their annual report to Parliament, so they can be held accountable for their access to information operations. This recommendation is key to my ability to continue to monitor the health of the access to information system. So far, only one institution has responded to this recommendation satisfactorily. I will look closely at next year's reports with the expectation that institutions will have provided a detailed account of their work.

I also call on Parliament to continue the valuable oversight role it played following previous reports, particularly through the House of Commons Standing Committee on Access to Information, Privacy and Ethics. Should issues of concern come to my attention, I will not hesitate to bring them to Parliament's notice and, when appropriate, take action.

Access to information ensures government accountability and fosters the engagement of Canadian citizens with their government. As a result, it must be accorded the highest priority through compliance among subject federal institutions and the government that oversees them.

# Introduction

The Canada Post Corporation and Canadian Broadcasting Corporation (CBC) are the subject of this report. It focuses on these institutions' performance during 2011–2012 in terms of the timeliness of their responses to access to information requests and compliance with the *Access to Information Act*.

These two institutions, which had become subject to the Act in 2007 as a result of the *Federal Accountability Act*, both received failing grades on the Office of Information Commissioner's 2009–2010 report cards ([http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_2009-2010\\_accessed-evaluees\\_2009-2010.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_accessed-evaluees_2009-2010.aspx)). Through a re-assessment,

and following our standard methodology, we sought to learn how well these institutions had done, two years later, implementing our recommendations and improving their performance.<sup>1</sup> The report cards for Canada Post and the CBC begin on **page 9**.

Since this is the final report we will be issuing as part of our three-year study into delay ([http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_3\\_yrs\\_plan.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_3_yrs_plan.aspx)), we also take stock (see **Chapter 1**) of elements key to fostering continuous improvement and protecting requesters' right of access to government information.



1 A note regarding statistics: Most of the figures cited in the report cards come from the questionnaire subject institutions complete at the start of the process. Any data about complaints are from our own records. On occasion (always noted), we use figures from the annual statistical reports institutions submit to the Treasury Board Secretariat (TBS). These figures may differ from our data. For example, our analysis of institutions' use of time extensions, unless otherwise indicated, stems from the notices institutions send us as they take the extensions. In contrast, TBS asks for information about extensions based on the requests institutions complete during the year.

# 1. Ensuring continuous improvement

The results of our three-year study into the causes of delay in the access to information system have generally been positive in terms of service to requesters. We have seen a small improvement—the first of any size in a decade—in the timeliness of institutions’ responses. In addition, many institutions now process new requests in an average time approaching—or in a few cases even less than—the ideal time frame of 30 days set out in the Act. In addition, a number of institutions have eliminated or greatly reduced their backlog of longstanding cases. Our complaints inventory also reflects institutions’ improved performance, since in 2011–2012 we received 58-percent fewer complaints about administrative matters, including delays, than we did three years earlier.

Nonetheless, the current report cards, and those we issued in May 2012 ([http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_measuring-up-et-re-a-la-hauteur.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_measuring-up-et-re-a-la-hauteur.aspx)), show that the situation has not improved uniformly. In fact, there remain, despite the overall progress, institutions with serious performance-related problems. As well, we found that the access to information system is still fragile, particularly in light of budget cuts. These are likely to threaten institutions’ ability to respond in a timely manner to access requests and to our complaint investigations.

Within this context, it is crucial that continued vigilance take place to ensure these gains are not sacrificed and performance continues to improve. In our view, there are four key elements that will make this possible: leadership on the part of ministers and senior institutional executives and management, leadership by the Treasury Board Secretariat (TBS), as the system administrator, vigorous oversight by us and by Parliament, and implementation by institutions of recognized best practices. Moreover, the evidence of efforts in these areas and any resulting system-wide improvement will inform future report card exercises and be a key factor in any decision to re-launch the process.

## Four key elements for continuous improvement

- Leadership on the part of ministers, and senior institutional executives and management
- Leadership from the centre: TBS
- Vigorous oversight by the Information Commissioner and Parliament
- Best practices

## Institutional leadership

Our report cards found again and again that strong, committed and sustained leadership—from the minister, deputy minister and senior management team—is the single most important fact in ensuring a successful access to information operation. Why is this so?

First and foremost, leaders directly and through their actions communicate the importance of access to information to all staff—that employees have a legislated obligation to respond to requests in a timely manner, along with a duty to assist requesters in any way they can. By emphasizing these points, strong statements from senior officials can help make access to information an integral part of the organizational culture, rather than an add-on to an institution’s mandate-associated work. Active championing of access to information can also ensure that employees understand the concept of transparency and why engaging with Canadians in this manner is an important public policy goal.

This is true in the case of the Canadian Broadcasting Corporation, which made a dramatic improvement in performance between 2009–2010 and 2011–2012 (**page 15**). We have also noticed over the years that leadership from the top often translates into tangible resources that allow institutions to better carry out their



access to information duties. This may result in an injection of financial resources, more people in the access office, training for access officials and employees, or new business tools.

We have also seen leadership take the form of including compliance with access obligations in the performance management agreements of senior executives. This, in itself, is a catalyst for better compliance.

The higher profile of access at an institution leads to, in our experience, greater comfort with the access process and confidence that it is possible to respond to requesters in an open and transparent manner, while still protecting essential and sensitive information. This is particularly true when employees across the institution receive comprehensive training on the access function.

## Leadership from the centre

Leadership for access to information must also flow from the centre of government—that is, from TBS, the system administrator.

In the 2008–2009 report cards, we recommended that TBS take action in areas such as information management, human resources, training and accountability for performance to promote general improvement across the access to information system. While TBS has responded to our recommendations in a number of regards (see [http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_measuring-up-etre-a-la-hauteur\\_4.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_measuring-up-etre-a-la-hauteur_4.aspx) for a progress report as of May 2012), it must continue to implement these recommendations to the fullest extent to support institutions and facilitate system-wide improvement.

Of particular note was our 2008–2009 recommendation that TBS increase the amount of statistical information it collects from institutions each year on their access to operations. This data provides an annual snapshot of, among other things, the volume of requests institutions received, some details on how quickly institutions completed them, the exemptions they claimed, the time extensions they took and the resources involved in carrying out the access function.

We were of the view, however, that there were gaps in the statistics. As a result, they did not provide the complete picture needed to fully understand the challenges associated with access to information operations at the federal level or to

propose effective solutions. For example, TBS did not request statistical information about the consultation requests institutions received or the number of pages involved in access requests—both indicators of the real workload of access to information offices. At our recommendation, TBS revised the reporting requirements to include these items and others. 2011–2012 was the first year in which institutions provided this additional data.

The aggregate figures are expected to be released soon, and we will analyze them to see what they say about trends in workload, timeliness, resources and other points (<http://www.infosource.gc.ca/bulletin/bulletin-eng.asp>). We also encourage institutions to analyze the data they glean about their operations and take the opportunity to adjust their procedures and resourcing levels accordingly.

## Vigorous oversight

The report card process clearly showed the value of ongoing and vigorous oversight of the access to information system. After re-assessing the 20 at-risk or poorly performing institutions (of the 33 we had studied overall since 2008–2009), we generally found that institutions that made a concerted and effective effort to implement our recommendations did, in fact, perform better.

We will continue that oversight through our complaint investigations, during which we focus on improper institutional practices and errors in application of the Act. To resolve complaints, we issue informal or, when the situation requires it, formal recommendations to institutions. In certain circumstances, we ask the head of the institution to provide a plan for how the institution will avoid the identified problems in the future. (For a recent instance of this, see “Consultations” in our 2011–2012 annual report: [http://www.oic-ci.gc.ca/eng/annual-reports-rapports-annuel\\_2011-2012\\_6.aspx](http://www.oic-ci.gc.ca/eng/annual-reports-rapports-annuel_2011-2012_6.aspx).)

Through self-initiated complaints (subsection 30(3) of the Act) and systemic investigations that look at a particular concern across a range of institutions, we provide recommendations to institutions. For example, the Commissioner launched in October 2012 a systemic investigation into whether, in the absence of a government-wide policy, text-based messages containing government information sent from, or received on, government-issued wireless devices are

being properly managed and preserved to ensure the right of access to information ([http://www.oic-ci.gc.ca/eng/systemic-investigation-enquetes-systemiques\\_2012\\_1.aspx](http://www.oic-ci.gc.ca/eng/systemic-investigation-enquetes-systemiques_2012_1.aspx)).

We will also continue to pursue in the courts complaints that cannot be resolved satisfactorily otherwise.

Finally, we will assess the annual reports on access to information operations that institutions submit to Parliament each year—in particular, to see whether institutions have reported on their progress implementing the recommendations we issued in our two 2012 special reports.

Having reviewed the 2011–2012 annual reports, we found a variety of responses, only one of which fully met our expectations—from Natural Resources Canada, which provided a detailed account of its work since we issued its report card in May 2012. We encourage other institutions to follow this model and will be closely reviewing the 2012–2013 annual reports to not only determine whether institutions, in fact, report their progress to Parliament but also to assess the work they have done in response to our other recommendations.

Parliament itself, particularly the House of Commons Standing Committee on Access to Information, Privacy and Ethics, could enhance its important oversight role by conducting an in-depth review of these reports and taking follow-up action, as it has done in the wake of previous report cards (<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5010171&Language=E&Mode=1&Parl=40&Ses=3>).

Between the new TBS statistics and the annual reports, our complaint and systemic investigations, and any necessary court actions, we will continue our oversight of institutions. We would respond as required if we were of the view that the recent fledgling gains had been, or were at risk of being, lost. This could include self-initiating complaints, meeting with senior institutional officials or re-instating the report cards earlier than planned.

## Best practices

In preparing report cards over the past three years, we have gathered many best practices that institutions across government would do well to emulate or from which they could take inspiration. Among these are the following notable examples:

## Leadership

- Incorporating access to information into the performance management agreements of senior executives.
- Communicating regularly, clearly and openly the importance of public institutions' being transparent and meeting their obligations under the *Access to Information Act*—to build a culture of openness at the institution.
- Ensuring the access to information function is adequately resourced.

## Oversight

- Having senior management regularly review the institution's access to information performance, including the deemed refusal rate, average completion time, backlog of pending requests and overall caseload, and making adjustments accordingly.

## Delegation orders

- Providing the access to information coordinator with full delegation for all access to information decisions.

## Duty to assist

- Always following the principle behind the duty to assist provision of the *Access to Information Act* (subsection 4(2.1)): making every effort to provide accurate, complete and timely responses to requests.
- Ensuring access officials and program areas fully understand the scope and nature of the request, prior to retrieving records, including immediately contacting the requester for clarification.
- Informing requesters early in the process of what to expect when their request involves a large volume of records—that significant fees may be required and considerable time may be needed to complete the response.
- Ensuring that communications requirements, such as preparing a communication plan or media lines, do not delay the release of records.
- Providing the records to the requester as soon as the processing has been completed (prior to the statutory deadline).
- Interpreting the exemptions and exclusions narrowly to ensure that as much information as possible is released.

## Training and awareness

- Holding training and awareness sessions across the institution for employees at all levels and ensuring that key officials, including from senior management, are on hand to answer questions.
- Through such sessions, promoting the need to respect the spirit of the *Access to Information Act*, as well as setting out the procedures and obligations associated with complying with it.

## Outreach

- Apprising third-party stakeholders and other external audiences of the implications of the Act, including meeting with community leaders and residents to not only promote transparency but also facilitate informal and formal access.
- Developing a strong Web presence for access to information that includes comprehensive but user-friendly information and tools for the public and stakeholders.

## Proactive disclosure

- Identifying the most-often requested types of information and posting it for the public before being asked for it.
- Processing frequently requested records to facilitate prompt responses to requests.

## Consultations

- Developing protocols with frequently consulted institutions, to expedite the consultation process.
- Keeping in regular contact with institutions being consulted to mutually determine how long the consultation will take and to track the status of the consultation response.
- When institutions fail to respond to consultation requests on time, exercising discretion and applying the necessary exemptions, severing records and releasing the rest, as is required by the Act.

## Time extensions

- Ensuring extensions are being taken for legitimate reasons, are for as few days as possible, and the rationales are properly documented.

## Contingency planning

- Anticipating special events that may have a large impact on the ability to respond to access requests in a timely manner and putting contingency plans in place. These could include embedding an access resource on site at the event, ensuring that program areas have back-up resources to cover for staff involved with the event or augmenting the staff complement in the access office.

## 2. Report cards

The 2011–2012 report cards focus on the two institutions that received an “average” rating (“C”) or below in 2009–2010. Both institutions improved their performance, the Canadian Broadcasting Corporation (CBC) substantially but Canada Post only marginally, and not to an acceptable level (see Figure 1).

As we noted in our May 2012 special report, institutions that implement our recommendations tend to noticeably improve their performance. This was once again shown to be true in our re-assessment of Canada Post and the CBC. As Figure 2 shows, Canada Post did not meet (or fully meet) our expectations for four

out of the five recommendations we issued, and while its performance did improve, it was only marginal. In contrast, the CBC implemented all our recommendations to our satisfaction, particularly with regard to senior institutional leadership, and increased its grade by several levels.

The number of complaints we received about Canada Post in 2011–2012 increased from 35 to 46, with the majority of them being about the institution’s refusal to release information. Fifty-five of the 71 complaints we received about the CBC in 2011–2012 were about refusal to release information.

Figure 1: Overall performance ratings, 2009–2010 and 2011–2012

INSTITUTION	2009–2010 GRADE	2011–2012 GRADE	2011–2012 OVERALL PERFORMANCE
Canada Post Corporation	Red Alert	F	Unsatisfactory
Canadian Broadcasting Corporation	F	A	Outstanding

Figure 2: Implementation of 2009–2010 recommendations

RECOMMENDATION	CANADA POST CORPORATION	CANADIAN BROADCASTING CORPORATION
Show leadership	Did not meet expectations	Met expectations
Develop action plan	Did not fully meet expectations	Met expectations through alternative action
Reduce deemed refusal rate	Did not meet expectations	Met expectations
Amend delegation order	Did not meet expectations	n/a
Submit all notices of extensions	Met expectations	n/a
Deliver training	n/a	Met expectations

# Canada Post Corporation

Canada Post Corporation operates Canada's postal delivery service, running more than 6,600 post offices across the country and processing 45 million pieces of mail per business day.

## Assessment

(Received a Red Alert in 2009–2010)



- Although it has taken some steps towards improving its performance, Canada Post is still far from achieving optimal compliance with the Act.
- Canada Post reduced its deemed refusal rate by 39 percent, but it remains unacceptably high at 44.9 percent.
- Canada Post took time extensions of more than 30 days for 27 percent of the requests it received in 2011–2012. Most were for 31 to 90 days.
- The number of complaints against Canada Post increased to 46 in 2011–2012, from 35 two years previously. The majority relate to refusals to disclose information.
- Canada Post's updated delegation order still restricts many functions to senior management.
- Canada Post reduced its backlog significantly, from 124 requests in February 2011, when it launched a dedicated plan to do so, to 11 as of October 2012.

## QUICK FACTS

	2009–2010	2011–2012
Number of requests carried over from previous fiscal year	73	<b>110</b>
Number of new requests	78	<b>75</b>
Number of requests completed	84	<b>137</b>
Number of pages reviewed for requests completed	9,815	<b>29,301</b>
Deemed refusal rate*	73.5%	<b>44.9%</b>
Average number of days to complete a request	190	<b>328</b>
Average number of days to complete a request received in reporting period	55	<b>58</b>
Number of consultation requests received	15	<b>21</b>
Percentage of required extension notices submitted to the Office of the Information Commissioner (OIC)	30%	<b>100%</b>
Number of complaints registered with the OIC	35	<b>46</b>
Number of complaints the OIC resolved**	(9) 17	<b>10</b>
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	7	<b>7</b>

## FOLLOW-UP ON 2009–2010 RECOMMENDATIONS

Leadership ..... Did not meet expectations  
 Action plan ..... Did not fully meet expectations  
 Delegation order ..... Did not meet expectations  
 Extension notices ..... Met expectations  
 Deemed refusal rate ..... Did not meet expectations

See report card text for details. For the full text of the recommendations, go here: [http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_2009-2010\\_accessed-evaluees\\_2009-2010\\_2.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_accessed-evaluees_2009-2010_2.aspx).

\* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See **Appendix A** for the formula the OIC used to calculate this rate.)

\*\* A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported reflects complaints resolved as of October 2012. For comparative purposes, the figure that appeared in the 2009–2010 report card is presented in parentheses. See Figure 5, **page 13**, for more information.

# Report card

Although Canada Post improved its compliance with the *Access to Information Act* in 2011–2012, it did not fully implement the recommendations the Office of the Information Commissioner (OIC) issued in 2009–2010. As a result, the institution did not significantly improve its rating in this report card. We are, however, cautiously optimistic that Canada Post would continue to improve its performance if it were to commit to fully implementing our recommendations.

The first recommendation made in the 2009–2010 report card was that the President and CEO demonstrate leadership to establish access to information and its legislative obligations as a priority. This recommendation was based on our experience that leadership by all levels is the key to effective compliance with the Act. Our review of Canada Post's compliance in 2011–2012 shows that the President and CEO made some efforts to increase the level of engagement and awareness of the importance of transparency. However, Canada Post continues to lag behind other similarly situated institutions in its implementation of the legislative requirements of the Act. Although there are some signs of improvement, we conclude that more needs to be done by Canada Post's President and CEO and his senior executive team to inspire and establish a culture of transparency across the institution.

Another recommendation was that Canada Post reduce its deemed refusal rate to zero. While the institution reduced its deemed refusal rate by 39 percent from 2009–2010 to 2011–2012, we are of the view that—at 44.9 percent—it remains unacceptably high.

We are also concerned that the cost of reducing the deemed refusal rate has been an increase in Canada Post's use of time extensions. In 2009–2010, Canada Post extended 4 percent of its requests for more than 30 days; in 2011–2012, it took extensions of more than 30 days for 27 percent of the requests it received. This is a significant increase, although we note that the bulk of the extensions taken in 2011–2012 were for fewer than 90 days (see Figure 3). In light of this increase, we will monitor Canada Post's use of extensions through our complaint investigations and our review of the institution's annual report to Parliament on access to information operations.

In 2009–2010, we also recommended that Canada Post develop an action plan to improve compliance with the Act. Canada Post did put a multi-year plan in place in February 2011, one key objective of which was to reduce the backlog of pending requests. As of October 2012, Canada Post had reduced its overall backlog from 124 files at the start of the plan to 11. While this effort resulted in a 328-day average completion time for all requests closed in 2011–2012, Canada Post's average completion time for requests received and completed within only that reporting period was 58 days (marginally higher than the 2009–2010 average of 55 days).

We observed, as a likely result of the backlog reduction, an increase in complaints to our office in 2011–2012. These climbed from 35 in 2009–2010 to 46 in 2011–2012 (see Figure 5), an increase of 31 percent. The majority of these complaints related to the refusal to disclose information. Twenty complaints are associated with requests for information linked to ongoing litigation.

Finally, Canada Post's delegation order continues to be a source of concern. We have consistently taken the view that an institution's access to information coordinator should have full delegated authority under the Act. On October 23, 2012, Canada Post's coordinator was delegated authority for simple administrative matters. Prior to that, the coordinator had no authority to administer any part of the Act. While this is a small step in the right direction, either the general manager or vice-president responsible for compliance is required to approve all substantive decisions taken under the authority of the Act. As a result, the potential for delay remains considerable.

Canada Post has stated that approvals by the executive level of requests that pertain to its proprietary information are necessary, since that is where the expertise and knowledge of the organization is found. Canada Post bases its approach on the premise that its commercial mandate radically differentiates it from other federal government institutions. All release packages continue to be reviewed by the general manager and vice-president responsible for compliance. In our view, this has contributed to delays.

Although Canada Post is relatively well resourced in terms of its ratio of analysts to volume of requests, we remain concerned that responses to requests and to our investigative queries are being delayed at the executive level. This delay puts requesters' right to timely access to information at risk.

## Follow-up on the 2009–2010 recommendations

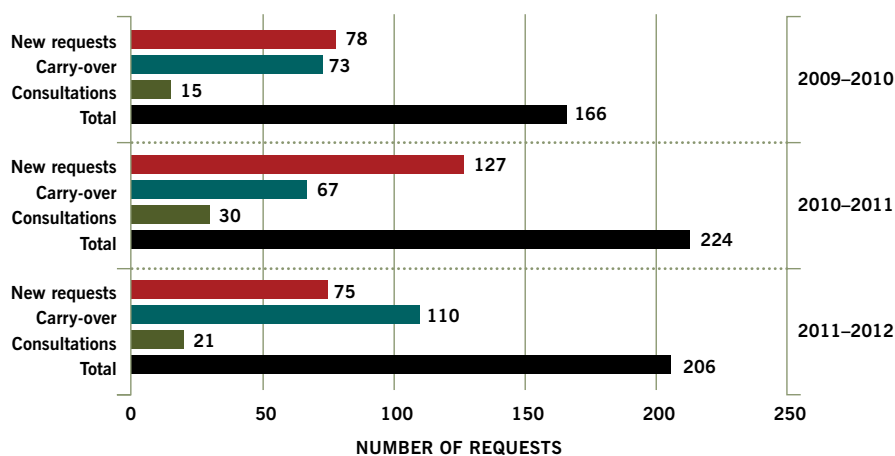
The OIC issued five recommendations to Canada Post in the 2009–2010 report card. The following summarizes the institution's response. For the full text of the recommendations and response, go here: [http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_2009-2010\\_accessed-evaluees\\_2009-2010\\_2.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_accessed-evaluees_2009-2010_2.aspx).

1. The OIC recommended that the President and CEO of Canada Post demonstrate leadership to establish access to information and its legislative obligations as a priority.

In response, Canada Post reported that the expectation of compliance with legislation is communicated by the President and CEO and that the executive cadre includes access to information issues on its weekly meeting agenda to achieve better compliance. Access to information staff also try to play an advocacy role among their colleagues in the business sectors. However, Canada Post reported that the administration of the Act is a complex and challenging task, given the size and nature of the corporation and the competitive business context in which it operates.

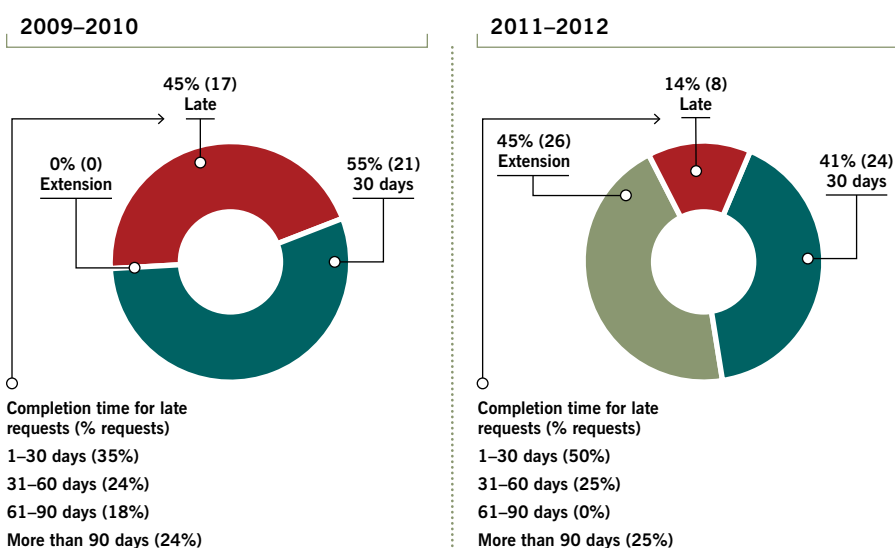
**Figure 1: Access to information workload, 2009–2010 to 2011–2012**

This graph shows the sources of Canada Post's workload. For the sake of observing trends, we have included figures from 2010–2011 as well as the two years we completed a report card on Canada Post. Comparing 2009–2010 to 2011–2012, the institution saw a 24-percent increase in its overall workload, including a 51-percent increase in the number of requests carried over and a 40-percent jump in the number of consultation requests from other institutions. The number of new access requests remained relatively constant (78 in 2009–2010 and 75 in 2011–2012) with a spike to 127 in 2010–2011. The number of pages reviewed for completed requests increased almost 200 percent from 2009–2010 to 2011–2012, due to certain complex and voluminous requests Canada Post received.



**Figure 2. How long it took to complete new requests, 2009–2010 and 2011–2012**

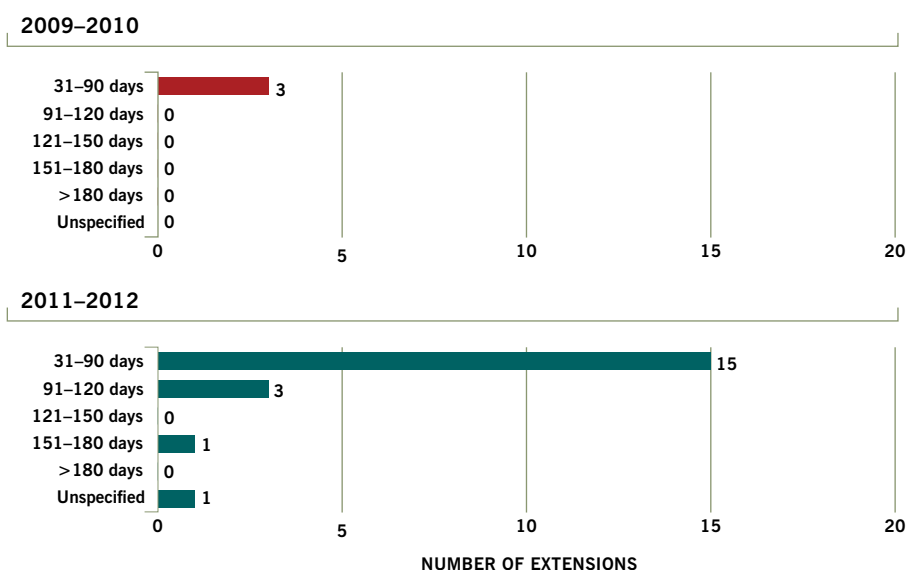
Between 2009–2010 and 2011–2012, the proportion of new access requests Canada Post completed within the timelines (30 days and extended) set out in the *Access to Information Act* rose from 55 percent to 86 percent. The remaining requests were completed late: 8 requests (14 percent) in 2011–2012 compared to 17 (45 percent) in 2009–2010.





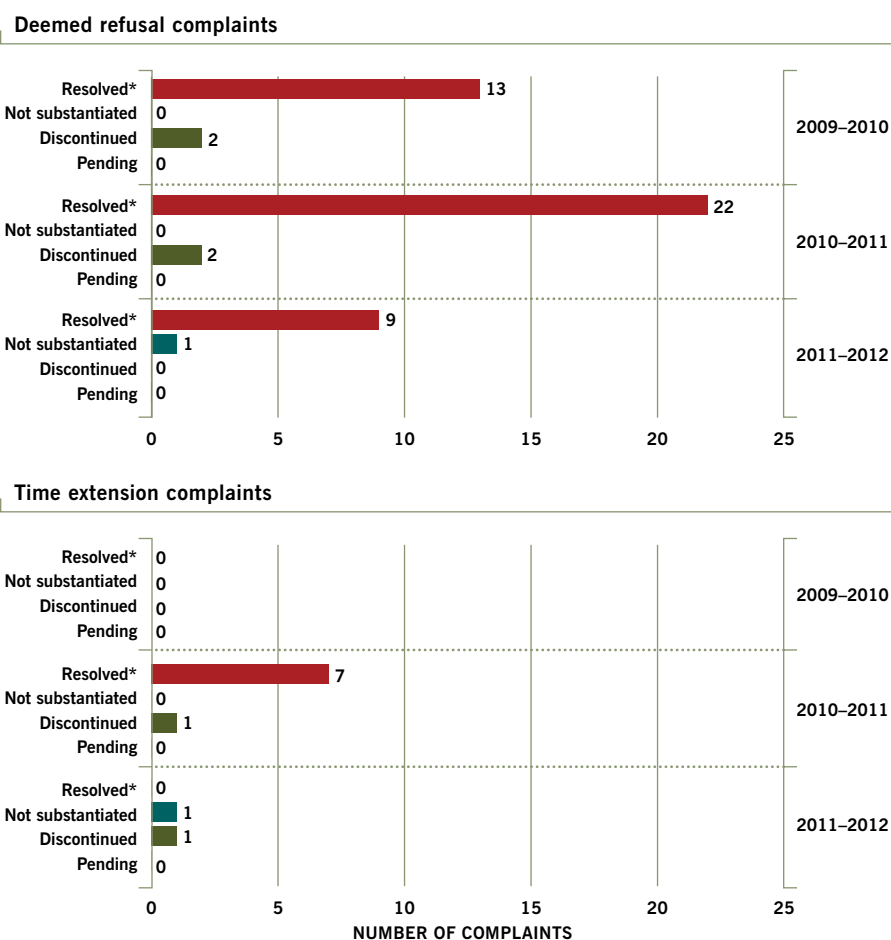
**Figure 3: Number and length of time extensions taken, 2009–2010 and 2011–2012**

This graph shows the number and length of the time extensions Canada Post reported to have taken in 2009–2010 and 2011–2012. The institution supplied this information in the notices it sent to the OIC under subsection 9(2) of the *Access to Information Act*. Canada Post submitted 30 percent of the required notices in 2009–2010, at which point the OIC issued a recommendation that the institution improve its performance in this area. In 2011–2012, Canada Post submitted 100 percent of the required extension notices. We note the increase in Canada Post's use of extensions, and will be monitoring it.



**Figure 4: Number and outcome of delay-related complaints, 2009–2010 to 2011–2012**

These graphs show the number and outcome of two types of complaint registered against Canada Post in the three fiscal years starting in 2009–2010: complaints about deemed refusals (access to information requests that Canada Post delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about Canada Post's use of the time extensions allowed under the Act. Overall, the number of deemed refusal complaints has decreased since 2009–2010, although there was a large increase in 2010–2011 (subsequently reversed). There were no time extension complaints against Canada Post in 2009–2010. The number of time extension complaints dropped from 2010–2011 to 2011–2012.



\* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.



**Figure 5: Number and outcome of complaints received by the OIC, 2009–2010 to 2011–2012**

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
<b>2009–2010</b>					
Administrative	14	0	2	0	16
Refusals	3	3	9**	4	19
<b>Total</b>	<b>17</b>	<b>3</b>	<b>11</b>	<b>4</b>	<b>35</b>
<b>2010–2011</b>					
Administrative	30	0	3	0	33
Refusals	2	1	1	4	8
<b>Total</b>	<b>32</b>	<b>1</b>	<b>4</b>	<b>4</b>	<b>41</b>
<b>2011–2012</b>					
Administrative	10	2	1	0	13
Refusals	0	0	1**	32	33
<b>Total</b>	<b>10</b>	<b>2</b>	<b>2</b>	<b>32</b>	<b>46</b>

This table sets out the number and outcome of the complaints the OIC registered against Canada Post in the three fiscal years starting in 2009–2010. The OIC registered an increasing number of complaints against Canada Post in each year. In 2011–2012, the majority of the complaints pertained to the exemptions applied to the requested records.

\* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

\*\* The OIC began using new disposition categories in 2010–2011. Since then, there have been two complaints (one registered in 2009–2010 and one in 2011–2012) closed in the new Settled category, meaning that the complaint was settled to the satisfaction of the complainant and the institution, without the need for the OIC to make a finding. For reporting purposes here, and to ensure consistency with previous reports, these complaints were placed in the Discontinued category.

2. Canada Post responded to the OIC's recommendation to develop an action plan for improvement with a multi-year plan featuring three key elements: improving performance, streamlining processes and re-engaging people.

Although not entirely successful, the plan has allowed Canada Post to make strides towards more effective compliance with the Act. The backlog is down to a manageable number of 11 requests from 124 at the plan's launch in February 2011. Canada Post hopes to clear the remaining 11 requests by the end of the 2012 calendar year.

Canada Post also asked its own corporate auditors to report on the progress made against the plan. In December 2011, the auditors reported that the first two of the OIC's recommendations had been addressed and that progress was being made on the remaining three.

3. On October 23, 2012, Canada Post revised its delegation instrument. However, the new delegation order does not give full delegation to the coordinator. In fact, the new order requires the approval of either the general manager or vice-president responsible for compliance for all but straightforward administrative tasks.

4. With a 100-percent compliance rate in 2011–2012, Canada Post successfully met the OIC's recommendation to submit all its notices of extensions taken for more than 30 days.

5. Canada Post was unable to reduce its overall deemed refusal rate, including backlogged requests, to an adequate level. The deemed refusal rate for 2011–2012 was 44.9 percent. This does represent an improvement from the 73.5-percent level in 2009–2010; however, the rate remains unacceptably high.

## 2011–2012 recommendations

The OIC is reissuing the recommendations from 2009–2010 for which Canada Post did not meet the Commissioner's expectations. We are also issuing three new recommendations, on the topics of performance agreements, extensions and reporting. While we acknowledge that senior management has taken steps towards improved compliance, the results of this report card demonstrate that there is a need for greater leadership at Canada Post with regard to access to information.

1. The Office of the Information Commissioner recommends that the President and CEO of the Canada Post Corporation demonstrate further leadership in establishing access to information as an institutional priority and creating an environment of accountability and transparency.

**RESPONSE:** *Canada Post's CEO and his senior executive team will continue their commitment to Canada Post meeting its obligations under the Access to Information Act. This leadership has been demonstrated through the significant progress made by the Corporation since receiving the Red Alert rating in 2011. For example:*

- *The creation and execution of a successful multi-year Action Plan to address the Commissioner's 2011 recommendations.*
- *The ATI Release Notification Team was created and is comprised of key executive and working level members including the ATI Coordinator. The team meets on a bi-weekly basis to ensure the timely release of ATI requests by promptly addressing and resolving any ATI issues as well as to be briefed on new ATI requests and upcoming releases.*
- *85% of requests received in 2011–2012 were on-time.*
- *A reduction in the deemed refusal rate from 73.5% in 2009–2010 to 44.9% in 2011–2012. The deemed refusal rate for requests received in 2011–2012 was 17%.*
- *The deemed refusal rate for requests received in 2012–2013 is currently 0%.*
- *The backlog of requests has been reduced by 91%.*
- *The number of pages processed in 2011–2012 has increased by almost 200% as compared to 2009–2010.*
- *The OIC was notified of 100% of extensions taken in 2011–2012 as compared to 30% in 2009–2010.*

2. The Office of the Information Commissioner recommends that the President and CEO of the Canada Post Corporation revise the delegation order to provide full delegation to the access to information coordinator.

**RESPONSE:** *The Corporation is committed to reviewing the delegation order with a view to enhancing efficiency, while maintaining the level of oversight that is necessary to manage the risks associated with Canada Post's competitive position.*

3. The Office of the Information Commissioner recommends that compliance with the *Access to Information Act* be included in the performance agreements of the Canada Post Corporation's executives and senior managers.

**RESPONSE:** *Canada Post is pleased to report that compliance with the Access to Information Act is already part of performance agreements currently in place with the accountable executives and senior managers.*

4. The Office of the Information Commissioner recommends that the Canada Post Corporation reduce the number of time extensions it takes under the Act and document the reasons for any extensions claimed.

**RESPONSE:** *Canada Post has already taken action to reduce the number of extensions taken in 2012–2013. In 2011–2012 Canada Post took extensions over 30 days on 27% of requests. To date in 2012–2013 this has decreased to 12%. We will continue this focus for the remainder of the year and going forward.*

5. The Office of the Information Commissioner recommends that the Canada Post Corporation continue to reduce its deemed refusal rate to zero.

**RESPONSE:** *The deemed refusal rate for requests received in 2012–2013 is currently at 0%. This represents a reduction of 73.5% since 2009–2010.*

6. The Office of the Information Commissioner recommends that the Canada Post Corporation report on its progress implementing these recommendations in its annual report to Parliament on access to information operations.

**RESPONSE:** *Canada Post reported progress against its Action Plan in the 2011–2012 Annual Report and will continue to do so in 2012–2013.*

# Canadian Broadcasting Corporation

The Canadian Broadcasting Corporation (CBC) is Canada's national public broadcaster. It produces, procures and distributes Canadian programming in English, French and eight Aboriginal languages.

## Assessment

(Received an F in 2009–2010)

- The improvement in the CBC's performance is impressive. For example, the CBC reduced its deemed refusal rate from 57.7 percent in 2009–2010 to 4.2 percent in 2011–2012.
- The average time the CBC took to complete a request dropped from 158 days in 2009–2010 to 36 days in 2011–2012.
- In 2011–2012, the number of complaints the OIC received about the CBC was still high but reflected a 47-percent decrease from 2009–2010.
- The CBC President and CEO showed notable leadership in the wake of the CBC's failing grade on the 2009–2010 report card. Among other measures, he incorporated access to information compliance into the performance management agreements of the senior management cadre, and communicated the importance of transparency and compliance with the Act to all staff.
- The CBC proactively posts frequently requested information on its website.

\* Percentage of carried over and new requests delayed beyond the deadlines (30 days and extended) set out in the *Access to Information Act*. (See **Appendix A** for the formula the OIC used to calculate this rate.)

\*\* A complaint is resolved when the OIC finds it has merit and the institution resolves it to the Commissioner's satisfaction. The number of complaints reported reflects complaints resolved as of October 2012. For comparative purposes, the figure that appeared in the 2009–2010 report card is presented in parentheses. See Figure 5, **page 19**, for more information.

## QUICK FACTS

	2009–2010	2011–2012
Number of requests carried over from previous fiscal year	108	<b>18</b>
Number of new requests	247	<b>218</b>
Number of requests completed	315	<b>208</b>
Number of pages reviewed for requests completed	44,054	<b>79,362</b>
Deemed refusal rate*	57.7%	<b>4.2%</b>
Average number of days to complete a request	158	<b>36</b>
Number of consultation requests received	38	<b>37</b>
Percentage of required extension notices submitted to the Office of the Information Commissioner (OIC)	100%	<b>91%</b>
Number of complaints registered with the OIC	134	<b>71</b>
Number of complaints the OIC resolved**	(36) 47	<b>9</b>
Number of full-time equivalents in access to information operations, as of the end of the fiscal year	7.63	<b>8</b>

## FOLLOW-UP ON 2009–2010 RECOMMENDATIONS

**Leadership** ..... Met expectations  
**Action plan** ..... Met expectations\*  
**Training** ..... Met expectations  
**Deemed refusal rate** ..... Met expectations

See report card text for details. For the full text of the recommendations, go here: [http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_2009-2010\\_accessed-evaluees\\_2009-2010\\_3.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_accessed-evaluees_2009-2010_3.aspx).

\* Met expectations through alternative action. Refer to response 2 under "Follow-up on the 2009–2010 recommendations," **page 19**, for details.

# Report card

The Canadian Broadcasting Corporation (CBC) made dramatic improvements in its access to information operations and achieved an outstanding level of compliance in 2011–2012. The CBC reduced its deemed refusal rate significantly—from 57.7 percent in 2009–2010 to 4.2 percent in 2011–2012. In 2011–2012, the CBC took an average of 36 days to complete requests, down from 158 in 2009–2010. The CBC submitted to the Office of the Information Commissioner (OIC) 91 percent of the required notices of extensions of more than 30 days, as required by section 9(2) of the *Access to Information Act*.

As we have seen for other institutions, leadership was the primary factor in the CBC's improved performance. After the CBC received an "F" on our 2009–2010 report card, the President and CEO made compliance with the Act a corporate priority and communicated the importance of transparency and compliance with the Act to all staff. Compliance was also included in the objectives of all vice-presidents as part of the CBC's individual performance management process. This, in turn, emphasized the importance of transparency throughout the institution and highlighted the expectation that sectors would fully support access to information operations. All employees were reminded of their role in responding to requests. Access officials reported that the corporate communications group reminded staff that the CBC is a public institution and that Canadians have a right to information about its operations.

The CBC initiated training for employees at all levels, with the reported effect of increased clarity about their respective roles and responsibilities, as well as a better understanding of the more technical aspects of administering the Act. Access officials said that the sessions established an important connection between the access to information office and the various sectors in the CBC, and resulted in improved cooperation.

The CBC reported that, as a result of this enhanced focus on transparency and training, employees at all levels have become more comfortable with the requirements of the Act and the importance of transparency.

Challenges encountered in achieving compliance were resolved by putting in place a mechanism that allowed management to react rapidly when requests were not advancing according to standard deadlines. To this end, access officials closely monitored benchmarks to ensure maximum compliance.

In 2011–2012, the CBC reported to the OIC that it took 24 extensions of more than 30 days (see Figure 3). This equals 11 percent of the requests it received. The number

of extensions has increased from the one the CBC reported in 2009–2010; however, we note that 75 percent of the extensions were for less than 90 days. We will continue to monitor the use of extensions at the CBC.

The CBC moved its access to information office from Corporate Services to its Media Law Division and appointed the Associate General Counsel as the coordinator. The CBC is of the view that there is a natural complement between the two roles, given the language of section 68.1 of the Act (the CBC's unique exclusion for programming, creative and journalistic information). It is also of the view that facilitating the office's access to legal counsel can help to expedite requests. While there may be advantages to this arrangement, we remain concerned that placing the access function directly under the responsibility of the CBC's legal services group may give rise to conflicting interests when issues relating to litigation occur and may lead to an overly technical approach to the application of the law. We will continue to monitor the effects of this arrangement.

The CBC's delegation order is also of some concern to us, since it restricts the authority to apply the exclusion for programming, creative and journalistic information to just the coordinator. However, the director is the de facto manager of the access program and, as such, should, in our view, be accorded full delegation of authority. The CBC informed us that it is considering a change to the delegation order. Access officials explained that the current delegation was put in place as a "safeguard" while the institution acclimatized to the application of the Act, and the director, who is comparatively new, became familiar with the institution.

Having resolved many of its internal access challenges, the CBC focussed its efforts on communicating to Canadians about access. The CBC's website has a section dedicated to transparency and accountability that is current, user-friendly and easy to navigate. As required by the Treasury Board Secretariat, the CBC lists its completed access requests on this site, except for those that disclose personal information. However, the CBC also posts complete release packages that are identified as being of "general interest." Access officials determined what is of interest by tracking request trends as well as external enquiries received by its corporate communications group. Completed requests of general interest include, subject to any exemptions applied, the content of audits, policies, minutes of meetings of the board of directors, as well as business and hospitality expenses. The CBC also proactively posts information about audits and expenses, as well as board minutes that have not yet been the subject of access requests. In our view, these actions are best practices.

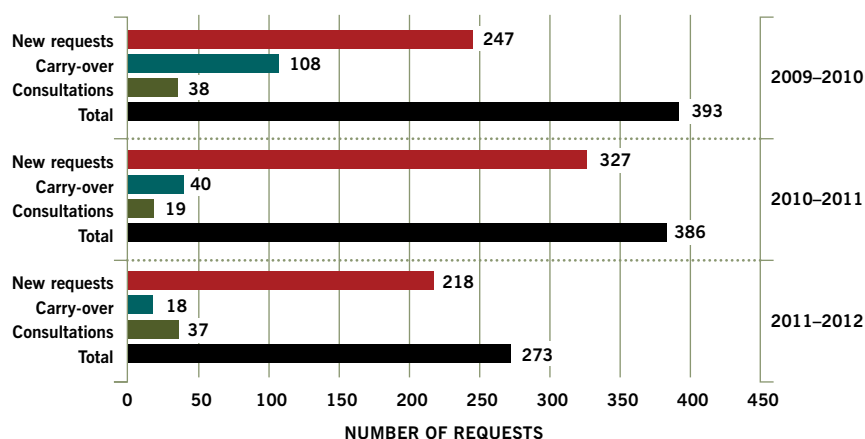
In November 2011, the Federal Court of Appeal concluded that the Information Commissioner has the right to examine information the CBC has claimed is related to its journalistic, creative and programming activities (*Canadian Broadcasting Corporation v Canada (Information Commissioner)* 2011 FCA 326). The CBC did not appeal this decision. As a result, in January 2012, we re-activated a number of complaints that we had put on hold in 2008–2009. While we initially had some difficulty obtaining responses to our investigative inquiries, subsequent communication with CBC management by our investigative branch has resulted in a much improved response time. We closed 186 complaints in 2011–2012, including many of the older complaints we had on file. We discontinued 131 complaints, 4 were settled, 25 were resolved and 26 were not substantiated. While we continue to work

diligently with the CBC to resolve the complaints that remain in our inventory (234 as of October 1, 2012), we maintain that, to protect requesters' rights, the CBC must dedicate more resources to complaint resolution until this backlog of complaints is eliminated.

Finally, one of the issues that arose during our complaint investigations was that the CBC was not retrieving and processing records that it claimed were excluded as relating to programming, creative or journalism matters. The CBC has reported to us that it now retrieves and processes all requested records. It has also informed us that it is now releasing more information than it was previously. We will continue to monitor the CBC's retrieval and processing of records to ensure compliance with the Act.

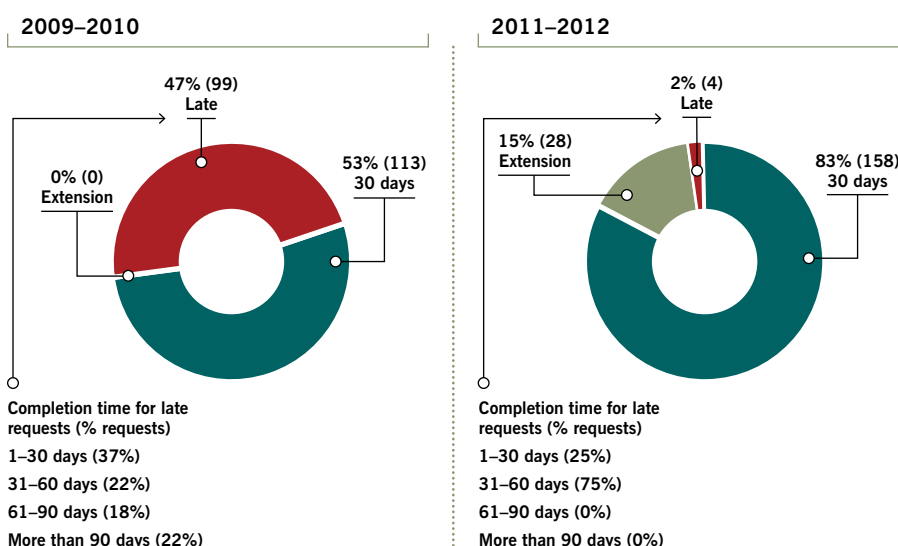
**Figure 1: Access to information workload, 2009–2010 to 2011–2012**

This graph shows the sources of the CBC's workload. For the sake of observing trends, we have included figures from 2010–2011 as well as the two years we completed a report card on the CBC. Comparing 2009–2010 to 2011–2012, the institution saw a 31-percent decrease in its overall workload, including a 83-percent decrease in the number of requests carried over and a 3-percent decrease in the number of consultation requests from other institutions. The number of new access requests decreased by 12 percent (247 in 2009–2010 to 218 in 2011–2012), after a spike to 327 in 2010–2011. The number of pages the CBC reviewed for completed requests increased by 80 percent from 2009–2010 to 2011–2012.



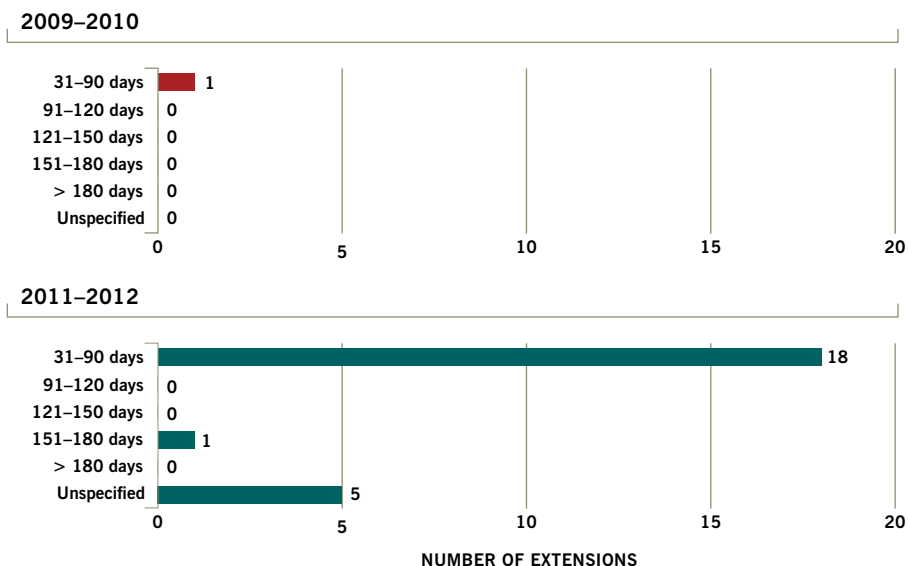
**Figure 2: How long it took to complete new requests, 2009–2010 and 2011–2012**

Between 2009–2010 and 2011–2012, the proportion of new access requests the CBC completed within the timelines (30 days and extended) set out in the *Access to Information Act* rose from 53 percent to 98 percent. The remaining requests were completed late: 4 requests (2 percent) in 2011–2012 compared to 99 requests (47 percent) in 2009–2010.



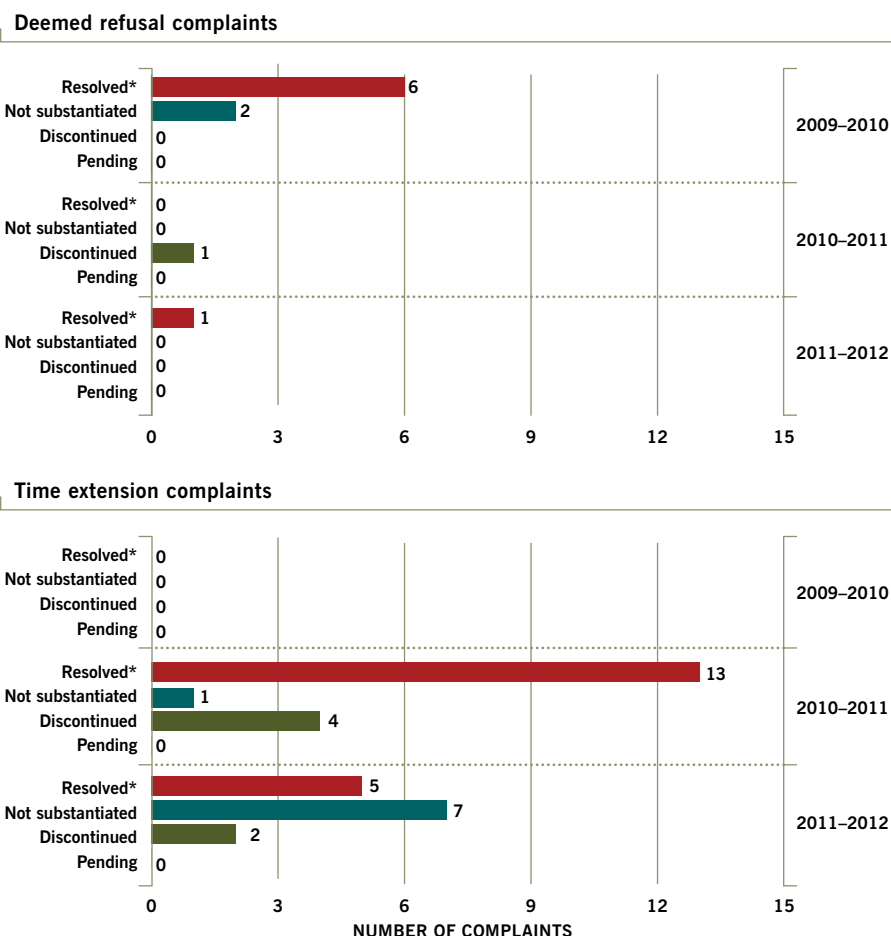
**Figure 3: Number and length of time extensions taken, 2009–2010 and 2011–2012**

This graph shows the number and length of the time extensions the CBC reported to have taken in 2009–2010 and 2011–2012. The institution supplied this information in the notices it sent to the OIC under subsection 9(2) of the *Access to Information Act*. The CBC notified the OIC in the one case in which it took an extension of more than 30 days in 2009–2010. In 2011–2012, the CBC submitted 91 percent of the required extension notices. The OIC notes the increase in the CBC's use of extensions, and will be monitoring it.



**Figure 4: Number and outcome of delay-related complaints, 2009–2010 to 2011–2012**

These graphs show the number and outcome of two types of complaint registered against the CBC in the three fiscal years starting in 2009–2010: complaints about deemed refusals (access to information requests that the CBC delayed beyond the deadlines—30 days and extended—set out in the *Access to Information Act*) and complaints about the CBC's use of the time extensions allowed under the Act. The number of deemed refusal complaints has decreased since 2009–2010. There were no time extension complaints against the CBC in 2009–2010, followed by a large increase in 2010–2011. There were slightly fewer of these complaints in 2011–2012.



\* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.



**Figure 5: Number and outcome of complaints received by the OIC, 2009–2010 to 2011–2012**

	RESOLVED*	NOT SUBSTANTIATED	DISCONTINUED	PENDING	TOTAL
<b>2009–2010</b>					
Administrative	10	4	0	0	14
Refusals	37	17	37	29	120
<b>Total</b>	<b>47</b>	<b>21</b>	<b>37</b>	<b>29</b>	<b>134</b>
<b>2010–2011</b>					
Administrative	21	4	5	0	30
Refusals	2	6	66**	79	153
<b>Total</b>	<b>23</b>	<b>10</b>	<b>71</b>	<b>79</b>	<b>183</b>
<b>2011–2012</b>					
Administrative	7	7	2	0	16
Refusals	2	2	10**	40	54
Cabinet confidences	0	0	0	1	1
<b>Total</b>	<b>9</b>	<b>9</b>	<b>12</b>	<b>41</b>	<b>71</b>

This table sets out the number and outcome of the complaints the OIC registered against the CBC in the three reporting periods starting in 2009–2010. The overall number of complaints registered against the CBC in 2011–2012 decreased by 47 percent from 2009–2010, after an increase in 2010–2011. In 2011–2012, the majority of the complaints were about the refusal to disclose information. In addition, most of the new complaints (79 percent) were made by one complainant.

\* Resolved complaints are those that the OIC finds to have merit and that the institution resolves to the Commissioner's satisfaction.

\*\* The OIC began using new disposition categories in 2010–2011. Since then, there have been three complaints (two in 2010–2011 and one in 2011–2012) closed in the new Settled category, meaning that the complaint was settled to the satisfaction of the complainant and the institution, without the need for the OIC to make a finding. For reporting purposes here, and to ensure consistency with previous reports, these complaints were placed in the Discontinued category.

## Follow-up on the 2009–2010 recommendations

The OIC issued four recommendations to the CBC in its 2009–2010 report card. The following summarizes the CBC's response. For the full text of the recommendations and the response from 2009–2010, go here: [http://www.oic-ci.gc.ca/eng/rp-pr\\_spe-rep\\_rap-spe\\_rep-car\\_fic-ren\\_2009-2010\\_accessed-evaluees\\_2009-2010\\_3.aspx](http://www.oic-ci.gc.ca/eng/rp-pr_spe-rep_rap-spe_rep-car_fic-ren_2009-2010_accessed-evaluees_2009-2010_3.aspx).

1. The OIC recommended that the President and CEO of the CBC demonstrate leadership in establishing access to information and its legislative obligations as an institutional priority.

In response, the CBC reported that access to information compliance was incorporated into the performance objectives of the vice-presidents as part of the CBC's individual performance management process. The coordinator and the vice-president responsible for access to information receive access status reports on a weekly basis. Senior managers across the CBC are apprised quarterly of performance metrics in their respective business areas, which allows them to take necessary actions to maintain

performance at the appropriate levels, and there are escalation procedures to ensure that requests advance in a timely fashion in the meantime. Communications, both corporate and internal, have focused on the need to be transparent and respect the right of Canadians to know what their public institutions are doing. Access to information officials reported that the President and CEO's attention has given them the "space" to achieve success, and that there is now a prevailing understanding of, and commitment to, transparency across all levels of the institution.

2. The OIC recommended that the CBC implement a multi-year action plan to improve access to information operations and results, including clarifying the retrieval, review and approval processes.

In 2009–2010, the CBC responded that a multi-year plan was being developed. Subsequently, however, the plan quickly became simple and focused on the achievement of sustainable results, access officials said. They created a list of objectives to achieve, rather than a formal plan, embedded them in the performance objectives of the responsible employees and closely monitored the resulting performance, making

adjustments as required. We are satisfied that this approach effectively responds to the recommendation.

3. The OIC recommended that the CBC initiate training to promote access to information awareness across the entire institution.

The CBC delivered three major training sessions for all levels of staff in key business areas. The director and staff of the access office led the sessions, with the coordinator and Assistant General Counsel on hand to respond to questions. The CBC reported that the training also served to establish a relationship between the access office and other groups within the institution, which has eased interaction between them. Additionally, the access office began publishing and distributing newsletters in both official languages to access liaison officers in each business area. Topics covered in these newsletters include the scope and purpose of the *Access to Information Act* and *Privacy Act*, the difference between exemptions and exclusions, and between discretionary and mandatory exemptions, and the protection of personal information.

4. The OIC recommended that the CBC reduce its deemed refusal rate to zero.

In response, the CBC set an objective to achieve a less-than-five-percent rate in two years—by the end of the 2012–2013 reporting period. In fact, the CBC reduced its deemed refusal rate to 4.2 percent in 2011–2012.

## 2010–2011 recommendations

The OIC commends the CBC for its vastly improved operations, and challenges it to assume a leadership role in the federal access to information community. The following recommendations are intended to ensure that the CBC maintains its success.

1. The Office of the Information Commissioner recommends that the President and CEO of the Canadian Broadcasting Corporation continue to demonstrate exemplary leadership and champion transparency throughout the organization.

**RESPONSE:** *This recommendation is agreed with. The CBC will take the following actions:*

- Continue including ATIP performance in the objectives of the CEO and all Vice Presidents.
- Disclose even more types of information proactively.
- Continue making records that have been released in answer to Access to Information requests available to the public on the Corporation's Transparency and Accountability web site.

2. The Office of the Information Commissioner recommends that the Canadian Broadcasting Corporation continue to reduce its deemed refusal rate to zero.

**RESPONSE:** *Going forward, we will consistently aim for a deemed refusal rate of 0. It is difficult to guarantee that we will achieve that rate every year. Our deemed refusal rate to the end of the first half of this fiscal year is 2%.*

*The CBC will take the following actions:*

- Continue emphasizing ATIP performance as a corporate priority.
- Continue rigorous internal ATIP performance reporting.

3. The Office of the Information Commissioner recommends that, to reflect current operations, the President and CEO of the Canadian Broadcasting Corporation revise the delegation order to give the director of the access to information office full authority for access to information decisions.

**RESPONSE:** *This recommendation is agreed with. The delegation instrument will be amended.*

4. To protect requesters' rights, the Office of the Information Commissioner recommends that the Canadian Broadcasting Corporation dedicate more resources to complaint resolution until the backlog of complaints is eliminated.

**RESPONSE:** *Eliminating the complaint backlog is a priority for CBC. We will implement the following three step plan to reduce the complaint backlog:*

- 1) Continue working strategically with the OIC to group and prioritize complaints, and jointly monitor progress on them to ensure that maximum output is being achieved from available resources;
- 2) Ensure all CBC administrative processes related to complaint resolution are as efficient as possible; and
- 3) When steps 1) and 2) have produced all the efficiencies they can, if necessary and as budget pressures permit, engage supplementary resource(s) as required.

5. The Office of the Information Commissioner recommends that the Canadian Broadcasting Corporation report on its progress in implementing these recommendations in its annual report to Parliament on access to information operations.

**RESPONSE:** *This recommendation is agreed with. The Corporation's annual report on its access to information operations will include detail regarding our progress on implementing the above recommendations.*



# Appendix A: How the OIC determined the rating for each institution

A global rating is attributed to each federal institution as a means to measure its performance. This rating for the reporting period is based on several factors. As a starting point, we are assessing compliance with statutory requirements, namely whether requests were responded to within statutory timelines (deemed refusal ratio) and whether notices under subsection 9(2) were sent to the Information Commissioner.

In addition to these statutory requirements, we are taking into account the practices and processes used by the institution that may impact, positively or negatively, its capacity to fulfill its obligations under the Act. Among these practices and processes, we have considered the average completion time and good practices. Contextual factors, such as variations in workload, will also be taken into account.

## OVERALL GRADE

## FACTORS



**(Outstanding)**

- 5% or less deemed refusals
- In the case of deemed refusals, we will look at the delay to respond to requesters: most within 30 days
- Compliance with subsection 9(2) (85% and more of extensions beyond 30 days were notified to the OIC)
- Appreciation of the overall use of time extensions and average completion time: deemed appropriate
- Comprehensive set of good practices in place to ensure that access requests are responded in a timely manner (proactive disclosure; informal disclosure; partial release; collaborative instruments, absence of requests categorization or no delay created by it, focus on service to the requesters, etc.)
- Other elements which may impact the institution's capacity to comply with the Act and measures taken to deal with them (for example, increase in the workload of the institution and high volume of consultation requests received)



**(Above average)**

- 10% or less deemed refusals
- In the case of deemed refusals, we will look at the delay to respond to requesters: most within 30 days
- Compliance with subsection 9(2) (85% and more of extensions beyond 30 days were notified to the OIC)
- Appreciation of the overall use of time extensions and the average completion time: in most instances, deemed appropriate
- Comprehensive set of good practices in place to ensure access requests are responded in a timely manner
- Other elements which may impact the institution's capacity to comply with the Act and measures taken to deal with them

**OVERALL GRADE****FACTORS****(Average)**

- 20% or less deemed refusals
- In the case of deemed refusals, we will look at the delay to respond to requesters: most within 30 days
- Compliance with subsection 9(2) (85% and more of extensions beyond 30 days were notified to the OIC)
- Appreciation of the overall use of time extensions and the average completion time: to some degree, deemed appropriate
- A number of good practices in place to ensure access requests are responded in a timely manner
- Other elements which may impact institution's capacity to comply with the Act and measures taken to deal with them

**(Below average)**

- 20% or more deemed refusals
- In the case of deemed refusals, we will look at the delay to respond to requesters: most beyond 30 days
- Compliance with subsection 9(2) (less than 85 percent)
- Concerns with the overall use of time extensions and the average completion time
- Limited good practices in place to ensure access requests are responded in a timely manner
- Other elements which may impact institutions' capacity to comply with the Act and measures taken to deal with them

**(Unsatisfactory)**

- 20% or more deemed refusals
- In the case of deemed refusals, we will look at the delay to respond to requesters: most beyond 30 days
- Compliance with subsection 9(2) (less than 85 percent)
- Concerns with the overall use of time extensions and the average completion time
- Practices in place to ensure access requests are responded in a timely manner are insufficient
- Other elements which may impact institutions' capacity to comply with the Act and measures taken to deal with them

## How the OIC calculated the deemed refusal rate for each institution

The deemed refusal rate is the percentage of requests that the institution did not complete within the deadlines (30 days and extended) set out in the *Access to Information Act*. There are four categories of overdue request: requests entering the year overdue, requests completed after 30 days with no extension, requests completed after their extension expired, and requests that were still open at year-end and past their due date. The deemed refusal rate is calculated by dividing the total number of overdue requests by the total number of requests open during the year.

### Here is an example:

Overdue requests carried over into 2011–2012	<b>47</b>
Requests completed after 30 days with no extension	<b>18</b>
Requests completed after their extension expired	<b>24</b>
Overdue requests carried over into 2012–2013	<b>52</b>
Total overdue requests	<b>141</b>

Requests carried over into 2011–2012	<b>256</b>
New requests in 2011–2012	<b>1,259</b>
Total open requests	<b>1,515</b>

**Deemed refusal rate:  $141 \div 1,515 = .093 \times 100 = 9.3$  percent**

