

Copyright Board of Canada

2020–21

Departmental Plan

The Honourable Navdeep Bains, P.C., M.P.
Minister of Innovation, Science and Industry

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From the Minister

It is my pleasure to present the 2020–21 Departmental Plan for the Copyright Board of Canada. We are working across the Innovation, Science and Economic Development Portfolio to enhance Canada's innovation performance, improve conditions for business investments, increase Canada's share of global trade and build a fair and efficient marketplace that promotes consumer choice and competition.

We will continue to work with provinces, territories, municipalities, Indigenous groups, industry, stakeholders and all Canadians to deliver an economic agenda that is growing an internationally competitive, knowledge-based economy while achieving our environmental goals.

In 2020–21, the Copyright Board of Canada will continue rendering decisions related to tariffs of general application and issuing licences where parties cannot agree or licences where the owner of the work cannot be found, as per its mandate under the *Copyright Act*. The Board will also implement new regulations to support a more efficient tariff-setting process, and develop new tools to promote enhanced participation from the parties in Board's processes. In addressing the procedural and structural challenges in respect to timeliness, predictability and clarity of its proceedings, the Board will contribute to making a robust creative economy in which both creators and innovative businesses can thrive to produce high-quality Canadian content.

Through all these initiatives and more, we are continuing to deliver our commitment to fostering a dynamic and growing economy that creates jobs, opportunities and a better quality of life for all Canadians.



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Minister of Innovation, Science and Industry

Plans at a glance

The Copyright Board of Canada’s (the Board) fundamental purpose is clearly articulated in the *Copyright Act* (the “*Act*”), to establish fair and equitable tariffs and licences through timely and fair processes. Specifically, “the Board shall fix royalty and levy rates and any related terms and conditions [...] that are fair and equitable [...]”. However, recent amendments to the *Act* add clear direction with respect to timely and efficient processes: “All matters before the Board shall be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit [...]”. These amendments, effective as of April 2019, along with new regulations expected this year, offer a new legislative framework for the Board, intended to improve timeliness, predictability, and clarity of its proceedings, and reduce regulatory burden and costs for all stakeholders.

Fiscal year 2019–20 was one of **transition** for the Board as it launched an in-depth review and began the modernization of its suite of internal processes to prepare for the implementation of this new legislative framework and the upcoming regulations. The Board considered how to best operationalize its new decision-making criteria and timelines, as well as how to use case management as a new tool to support its processes.

Fiscal year 2020–21 will be one of **consolidation**, where the Board’s energy will largely focus on implementing a revised and clear operational structure for its decision-making processes and practices, reflective of the new regulations – those set by the Government following the 2019 legislative amendments, as well as the Board’s own procedural regulations. Together, these initiatives will clarify the rules and expectations for all participants in Board processes, and set more predictable timelines for Board decision-making. The Board’s regulations will also establish clear guidelines for each part of the tariff consideration process, including case management.

The Board will also produce new tools this year – including additional practice notices, and guidelines with respect to economic evidence, to help parties understand how to best optimize their participation before the Board. Development of an e-filing system will be initiated, with expected implementation by 2023. To support the objective of improving access to justice, the Board will finalize the restructuring of its website, facilitating research on Board decisions and activity, and providing a single window for questions and comments from the public. The Board’s website will act as a gateway to the new e-filing system when ready.

Overall, the goal is to uphold the Board’s past success as a specialized tribunal operating in a highly complex legal and economic marketplace, while playing a trusted leadership role as a more efficient and accessible organization, where all the players, including the public, can be actively engaged in effective tariff-setting. To inform the development of new and more effective procedural initiatives, the Board will consult representatives from the legal, academic and administrative tribunal communities. This effort will be part of a dialogue leading to eventual broader engagement of collective societies and users on increasing transparency of collective rights management through tariff-setting processes, as suggested by the Standing Committee on Industry, Science and Technology in its Statutory Review of the *Copyright Act*. ([Recommendation 35ⁱ](#))

As part of increased transparency and efficiency at the Board, a new performance measurement framework will be further developed, with expected implementation in 2021–22. While this work is underway, the Board will continue to report on its progress based on its previous framework, and identify new measures in anticipation of more robust results reporting in the near future.

Finally, the Board will continue to build on the “lean” assessment of its internal practices and policies launched in 2019–20, to foster a culture of efficiency within its organization and to better support Members in their role as decision-makers. As a small organization with a critical need for timely, highly specialized expertise, the Board’s greatest strength lies in the capacity of its people. A key priority this year will be to increase resilience through new avenues for recruitment, training, and leadership development, working with broader expert, government, and academic communities, to maintain the Board’s high quality and talented staff.

For more information on the Copyright Board of Canada’s plans, priorities and planned results, see the “Core responsibilities: planned results and resources” section of this report.

Core responsibilities

Planned results and resources

This section contains detailed information on the Board's planned results and resources for its core responsibility.

Copyright Tariffs and Licences

Description

The Copyright Board of Canada establishes the tariffs which set the royalties to be paid for the use of copyrighted works, when the copyright on such works are being administered collectively by a society. The Board also issues licences which set the royalties to be paid for the use of copyrighted works when the copyright owner cannot be located. By issuing fair and equitable tariffs and licences in a timely manner, the Board encourages the development and adoption of new technologies and stimulates innovation in the Canadian creative economy. Its work also promotes confidence in Canada's tariff and licencing processes.

Planning highlights

The Board's mandate and responsibilities have considerably evolved since its creation in 1989 as a result of successive amendments to the *Act*, first in 1997 by *An Act to amend the Copyright Act*; then in 2012 by the *Copyright Modernization Act*; and then finally in 2018 via the *Budget Implementation Act, 2018 No 2*. The latest amendments introduced several measures to address the challenges faced by the Board with respect to timeliness, predictability and clarity of its proceedings, and added new criteria to its mandate. These changes to the *Act* came into effect on April 1st, 2019.

The Board's ability to deliver on its mandate and responsibilities as modified by these changes depends in part on its agility, adaptability and resilience as an organization. Because it deals with extremely complex subject matter which continuously morphs and shape-shifts as technologies evolve, the Board must keep itself informed and well versed in a multitude of fields such as conventional broadcasting and internet streaming, in addition to domestic and international developments in copyright and administrative law. It must also provide for a stimulating working environment conducive to recruitment and retention of highly skilled employees. This is essential to ensure the Board has access to the technical expertise required to support its decision-making process and render fair and equitable decisions, as prescribed by the *Act*.

The Board's top priorities for the year 2020–21 will focus on consolidation – bringing together its past achievements with a revised, more transparent and clear, operational framework. Importantly, it will test-drive new timelines for processes and decision-making, in anticipation of new regulations coming into force this year. It will publish its own regulations on procedure, and continue to produce new tools to support a more efficient tariff setting process. The Board

will also continue to foster a culture of efficiency not only within its organization but also among parties interacting with the Board by publishing a number of additional practice notices to clarify the nature of the interactions between the parties and the Board, and help reduce delays at every step of the tariff approval process. By maximizing the effectiveness and predictability of the processes it administers, the Board seeks to minimize administrative costs to Canadians from the setting of tariffs. To the extent that these processes lead to fair and equitable tariffs and licences, the Board will be supporting an innovation-driven Canadian copyright marketplace beneficial to both rights holders and users of creative content.

With respect to performance measurement and results monitoring, current indicators need to be reviewed to ensure that all relevant aspects of Board's performance are adequately measured as per the new legislative framework. For 2020–21 however, the Board will continue to gather data based on the previous framework, namely the number of months between the date when a particular tariff file is closed, and the date of the corresponding decision.

With respect to licences that authorize the use of published works, fixed performances, published sound recordings and fixed communication signals if the copyright owner cannot be located, the Board will also continue to gather data on the number of days between the date when a particular licence file is closed, and the date of issuance of the licence. New performance indicators for both tariff and licences processes will be developed in the longer term once the new legislative framework is fully implemented and applicable.

Planned results for Copyright Tariffs and Licences

Departmental result	Departmental result indicator	Target	Date to achieve target	2016–17 actual result	2017–18 actual result	2018–19 actual result
Timely tariff decisions	Percentage of tariff decisions published within 12 months	70%	March 31, 2021	50%	93%	100%
Timely issuance of licences	Percentage of licences issued within 45 days	70%	March 31, 2021	100%	0%	50%

Note: The actual results of both indicators can vary substantially because of the low number of decisions and licences that the Board issues every year. For instance, in 2016-17, the Board issued two tariff decisions with one after the twelve-month deadline. This implied an actual result of 50%. Because of this high variability of the results, the targets have to remain at their current level of 70%, even though for some years, the Board is able to achieve a better result. It is only after having consistently achieved a result higher than the target, and over a number of years, that this target can be revised.

As indicated in the table, for the year 2017-18, none of the licences were issued within 45 days. The average number of days within which the licences were issued during that period is 56, 11 days above the target of 45 days. This low performance reflects a year where the Board was very active on other fronts and could not allocate the necessary resources to meet this performance objective.

Planned budgetary financial resources for Copyright Tariffs and Licences (dollars)

2020–21 budgetary spending (as indicated in Main Estimates)	2020–21 planned spending	2021–22 planned spending	2022–23 planned spending
3,422,791	3,422,791	3,434,967	3,436,371

Planned human resources for Copyright Tariffs and Licences

2020–21 planned full-time equivalents	2021–22 planned full-time equivalents	2022–23 planned full-time equivalents
21	21	21

Financial, human resources and performance information for the Copyright Board of Canada's Program Inventory is available in the [GC InfoBase](#).ⁱⁱ

Planned Results for Internal Services

Description

Internal Services are those groups of related activities and resources that the federal government considers to be services in support of Programs and/or required to meet corporate obligations of an organization. Internal Services refers to the activities and resources of the 10 distinct services that support Program delivery in the organization, regardless of the Internal Services delivery model in a department. These services are:

- ▶ Management and Oversight Services
- ▶ Communications Services
- ▶ Legal Services
- ▶ Human Resources Management Services
- ▶ Financial Management Services
- ▶ Information Management Services
- ▶ Information Technology Services
- ▶ Real Property Management Services
- ▶ Materiel Management Services
- ▶ Acquisition Management Services

Planning highlights

The Board receives timely support from internal services, namely: finance; human resources; communications; information management and information technology. This activity is critical in supporting the realisation of the Board's mandate and objectives, given its small size and high level of specialization. One of the Board's internal priorities this year will be to strengthen the management and oversight of its resources, and increase the sustainability of its workforce through recruitment and retention of the expertise necessary to support timely and high quality decisions.

Planned budgetary financial resources for Internal Services (dollars)

2020–21 budgetary spending (as indicated in Main Estimates)	2020–21 planned spending	2021–22 planned spending	2022–23 planned spending
802,877	802,877	805,733	806,062

Planned human resources for Internal Services

2020–21 planned full-time equivalents	2021–22 planned full-time equivalents	2022–23 planned full-time equivalents
4	4	4

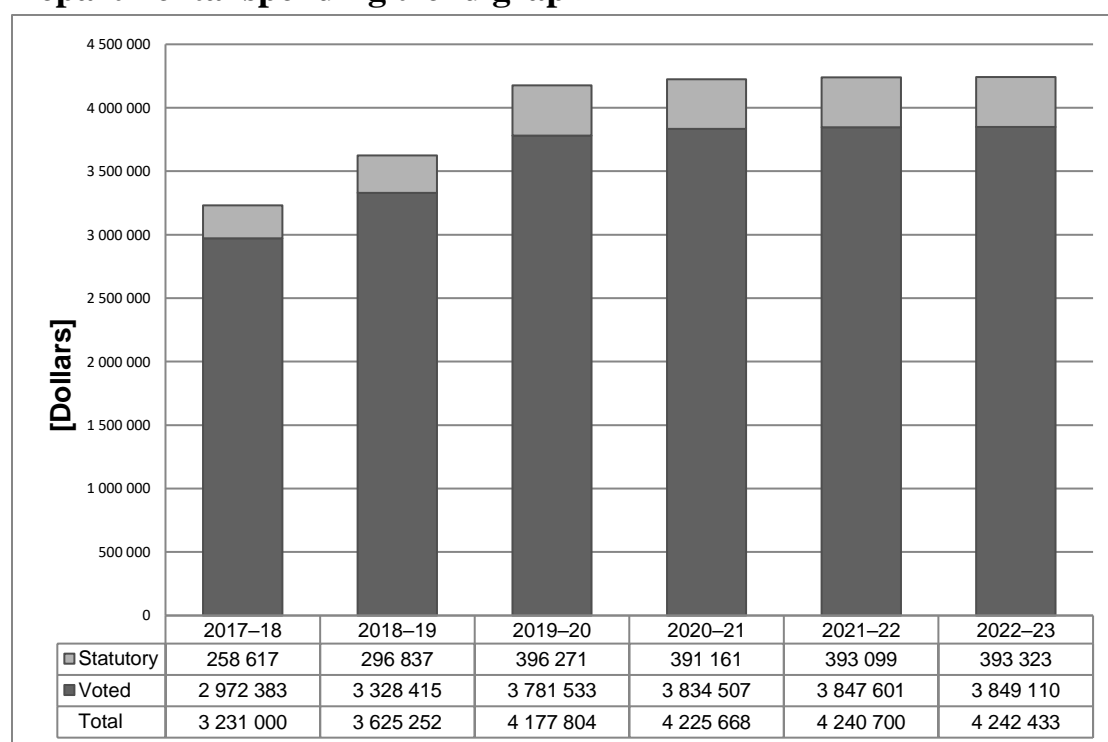
Spending and Human resources

This section provides an overview of the department's planned spending and human resources for the next three consecutive fiscal years, and compares planned spending for the upcoming year with the current and previous years' actual spending.

Planned spending

The following graph presents planned (voted and statutory) spending over time.

Departmental spending trend graph



Overall (voted and statutory), the Board's total authorities for 2020–21 have a net increase of about 1 million from 2017-18 and about \$600,000 from 2018-19. These are reflections of the additional financial resources provided to the Board in Budget 2018.

The following table shows actual, forecast and planned spending for the Copyright Board of Canada's core responsibility and for Internal Services for the years relevant to the current planning year.

Budgetary planning summary for core responsibilities and Internal Services (dollars)

Core responsibilities and Internal Services	2017–18 expenditures	2018–19 expenditures	2019–20 forecast spending	2020–21 budgetary spending (as indicated in Main Estimates)	2020–21 planned spending	2021–22 planned spending	2022–23 planned spending
Copyright Tariffs and Licences	2,617,110	2,936,454	3,384,021	3,422,791	3,422,791	3,434,967	3,436,371
Subtotal	2,617,110	2,936,454	3,384,021	3,422,791	3,422,791	3,434,967	3,436,371
Internal Services	613,890	688,798	793,783	802,877	802,877	805,733	806,062
Total	3,231,000	3,625,252	4,177,804	4,225,668	4,225,668	4,240,700	4,242,433

As mentioned before, the increase in planned spending for 2020–21 compared to 2017-18 reflects additional funding provided to the Board through Budget 2018.

The following table reconciles gross planned spending with net planned spending for 2020–21.

2020–21 Budgetary planned gross spending summary (dollars)

Core responsibilities and Internal Services	2020–21 planned gross spending	2020–21 planned revenues netted against expenditures	2020–21 planned net spending
Copyright Tariffs and Licences	3,422,791	3,822,847	3,822,847
Subtotal	3,422,791	3,822,847	3,822,847
Internal Services	802,877	896,717	896,717
Total	4,225,668	4,719,564	4,719,564

Planned human resources

The following table shows actual, forecast and planned full-time equivalents (FTEs) for the core responsibility in the Copyright Board of Canada's departmental results framework and for Internal Services for the years relevant to the current planning year.

Human resources planning summary for core responsibilities and Internal Services

Core responsibilities and Internal Services	2017–18 actual full-time equivalents	2018–19 actual full-time equivalents	2019–20 forecast full-time equivalents	2020–21 planned full-time equivalents	2021–22 planned full-time equivalents	2022–23 planned full-time equivalents
Copyright Tariffs and Licences	15	16	23	21	21	21
Subtotal	15	16	23	21	21	21
Internal Services	3	2	3	4	4	4
Total	18	18	26	25	25	25

The additional funding in part allowed the Board to increase its capacity, among various occupational groups, in order to implement the organizational reforms needed in respect of its decision-making processes and practices.

Estimates by vote

Information on the Copyright Board of Canada's organizational appropriations is available in the [2020–21 Main Estimates](#).ⁱⁱⁱ

Condensed future-oriented statement of operations

The condensed future-oriented statement of operations provides an overview of the Copyright Board of Canada's operations for 2019–20 to 2020–21.

The amounts for forecast and planned results in this statement of operations were prepared on an accrual basis. The amounts for forecast and planned spending presented in other sections of the Departmental Plan were prepared on an expenditure basis. Amounts may therefore differ.

A more detailed future-oriented statement of operations and associated notes, including a reconciliation of the net cost of operations to the requested authorities, are available on the Copyright Board of Canada's website at the following link: [Future-oriented Statements 2020-2021](#).

Condensed future-oriented statement of operations for the year ending
March 31, 2021 (dollars)

Financial information	2019–20 forecast results	2020–21 planned results	Difference (2020–21 planned results minus 2019–20 forecast results)
Total expenses	4,844,381	4,719,564	(124,817)
Total revenues	-	-	-
Net cost of operations before government funding and transfers	4,844,381	4,719,564	(124,817)

Corporate information

Organizational profile

Appropriate minister: The Honourable Navdeep Bains, P.C., M.P.
Minister of Innovation, Science and Industry

Institutional head: Nathalie Théberge, Vice-Chairperson and CEO

Ministerial portfolio: Innovation, Science and Economic Development

Enabling instrument: *Copyright Act*^{iv}

Year of incorporation / commencement: 1989

Raison d'être, mandate and role: who we are and what we do

“Raison d'être, mandate and role: who we are and what we do” is available on the Copyright Board of Canada’s [website](#).

For more information on the department’s organizational mandate letter commitments, see the “[Minister’s mandate letter](#)”.

Operating context

Information on the operating context is available on the Copyright Board of Canada’s [website](#).

Reporting framework

The Copyright Board of Canada’s approved Departmental Results Framework and Program Inventory for 2020–21 are as follows.

Departmental Results Framework	Core Responsibility: Copyright Tariffs and Licences		Internal Services
	Department Result 1: Timely Tariff Decisions	Indicator: Percentage of tariff decisions published within 12 months	
	Department Result 2: Timely Issuance of Licences	Indicator: Percentage of licences issued within 45 days	
Program Inventory	Program: Copyright Tariff Setting and Issuance of Licences		

Supporting information on the program inventory

Supporting information on planned expenditures, human resources, and results related to the Copyright Board of Canada's Program Inventory is available in the [GC InfoBase](#).^v

Federal tax expenditures

The Copyright Board of Canada's Departmental Plan does not include information on tax expenditures that relate to its planned results for 2020–21.

Tax expenditures are the responsibility of the Minister of Finance, and the Department of Finance Canada publishes cost estimates and projections for government-wide tax expenditures each year in the [Report on Federal Tax Expenditures](#).^{vi} This report provides detailed information on tax expenditures, including objectives, historical background and references to related federal spending programs, as well as evaluations, research papers and gender-based analysis. The tax measures presented in this report are solely the responsibility of the Minister of Finance.

Organizational contact information

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Appendix: definitions

appropriation (crédit)

Any authority of Parliament to pay money out of the Consolidated Revenue Fund.

budgetary expenditures (dépenses budgétaires)

Operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations.

core responsibility (responsabilité essentielle)

An enduring function or role performed by a department. The intentions of the department with respect to a core responsibility are reflected in one or more related departmental results that the department seeks to contribute to or influence.

Departmental Plan (plan ministériel)

A report on the plans and expected performance of a department over a 3-year period. Departmental Plans are tabled in Parliament each spring.

departmental priority (priorité ministérielle)

A plan or project that a department has chosen to focus and report on during the planning period. Departmental priorities represent the things that are most important or what must be done first to support the achievement of the desired departmental results.

departmental result (résultat ministériel)

A consequence or outcome that a department seeks to achieve. A departmental result is often outside departments' immediate control, but it should be influenced by program-level outcomes.

departmental result indicator (indicateur de résultat ministériel)

A factor or variable that provides a valid and reliable means to measure or describe progress on a departmental result.

departmental results framework (cadre ministériel des résultats)

A framework that consists of the department's core responsibilities, departmental results and departmental result indicators.

Departmental Results Report (rapport sur les résultats ministériels)

A report on a department's actual accomplishments against the plans, priorities and expected results set out in the corresponding Departmental Plan.

experimentation (expérimentation)

The conducting of activities that seek to first explore, then test and compare, the effects and impacts of policies and interventions in order to inform evidence-based decision-making, and

improve outcomes for Canadians, by learning what works and what doesn't. Experimentation is related to, but distinct from innovation (the trying of new things), because it involves a rigorous comparison of results. For example, using a new website to communicate with Canadians can be an innovation; systematically testing the new website against existing outreach tools or an old website to see which one leads to more engagement, is experimentation.

full-time equivalent (équivalent temps plein)

A measure of the extent to which an employee represents a full person-year charge against a departmental budget. Full-time equivalents are calculated as a ratio of assigned hours of work to scheduled hours of work. Scheduled hours of work are set out in collective agreements.

gender-based analysis plus (GBA+) (analyse comparative entre les sexes plus [ACS+])

An analytical process used to assess how diverse groups of women, men and gender-diverse people experience policies, programs and services based on multiple factors including race, ethnicity, religion, age, and mental or physical disability.

government-wide priorities (priorités pangouvernementales)

For the purpose of the 2020–21 Departmental Plan, government-wide priorities refers to those high-level themes outlining the government's agenda in the 2015 Speech from the Throne, namely: Growth for the Middle Class; Open and Transparent Government; A Clean Environment and a Strong Economy; Diversity is Canada's Strength; and Security and Opportunity.

horizontal initiative (initiative horizontale)

An initiative in which two or more federal organizations are given funding to pursue a shared outcome, often linked to a government priority.

non-budgetary expenditures (dépenses non budgétaires)

Net outlays and receipts related to loans, investments and advances, which change the composition of the financial assets of the Government of Canada.

performance (rendement)

What an organization did with its resources to achieve its results, how well those results compare to what the organization intended to achieve, and how well lessons learned have been identified.

performance indicator (indicateur de rendement)

A qualitative or quantitative means of measuring an output or outcome, with the intention of gauging the performance of an organization, program, policy or initiative respecting expected results.

performance reporting (production de rapports sur le rendement)

The process of communicating evidence-based performance information. Performance reporting supports decision-making, accountability and transparency.

plan (plan)

The articulation of strategic choices, which provides information on how an organization intends to achieve its priorities and associated results. Generally a plan will explain the logic behind the strategies chosen and tend to focus on actions that lead up to the expected result.

planned spending (dépenses prévues)

For Departmental Plans and Departmental Results Reports, planned spending refers to those amounts presented in the Main Estimates.

A department is expected to be aware of the authorities that it has sought and received. The determination of planned spending is a departmental responsibility, and departments must be able to defend the expenditure and accrual numbers presented in their Departmental Plans and Departmental Results Reports.

program (programme)

Individual or groups of services, activities or combinations thereof that are managed together within the department and focus on a specific set of outputs, outcomes or service levels.

program inventory (répertoire des programmes)

Identifies all of the department's programs and describes how resources are organized to contribute to the department's core responsibilities and results.

result (résultat)

An external consequence attributed, in part, to an organization, policy, program or initiative. Results are not within the control of a single organization, policy, program or initiative; instead they are within the area of the organization's influence.

statutory expenditures (dépenses législatives)

Expenditures that Parliament has approved through legislation other than appropriation acts. The legislation sets out the purpose of the expenditures and the terms and conditions under which they may be made.

strategic outcome (résultat stratégique)

A long-term and enduring benefit to Canadians that is linked to the organization's mandate, vision and core functions.

target (cible)

A measurable performance or success level that an organization, program or initiative plans to achieve within a specified time period. Targets can be either quantitative or qualitative.

voted expenditures (dépenses votées)

Expenditures that Parliament approves annually through an Appropriation Act. The vote wording becomes the governing conditions under which these expenditures may be made.

Endnotes

- i. <https://www.ourcommons.ca/DocumentViewer/en/42-1/INDU/report-16/page-36>
- ii. GC InfoBase, <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#start>
- iii. 2018-19 Main Estimates, <https://www.canada.ca/en/treasury-board-secretariat/services/planned-government-spending/government-expenditure-plan-main-estimates.html>
- iv. *Copyright Act*: <http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>
- v. GC InfoBase, <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#start>
- vi. Report on Federal Tax Expenditures, <http://www.fin.gc.ca/purl/taxexp-eng.asp>