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A charter of rights for Internet users:
For a Canadian perspective

Executive summary
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In 2014, on the occasion of the 25th anniversary of the World Wide Web, Tim Berners-Lee, its inventor, presented an idea that provoked a lot of discussions: the development of a Web *Magna Carta*, an adaptation of the 1215 Magna Carta to the digital age, in order to state and guarantee Internet users' basic rights, the inalienable rights that everyone has and that must be protected and exercised online to maintain a free and democratic society. Such a document seemed indispensable nowadays; while the Web is a source of multiple benefits and social advances, it also generates its share of problems. Leaks and merchandising of personal data online, massive dissemination of false news, consolidation of the oversized economic power of Web giants (Google, Amazon, Facebook, Apple and others): those are a few of the major problems that Internet users face in 2019.

Canada appears to share that view. The federal government announced in May 2019 the establishment of a Canadian Digital Charter, a document the government says will restore Canadians' trust in the digital sphere.

As part of our research, we first analysed the various debates about the development of Internet users' charters of rights. Authors agree on the value of that type of document, the way of implementing such charters, and the basic rights to be included therein.

While the courts' broad interpretation of existing legislation on basic rights might prove sufficient to clarify the application of a charter of Internet users' rights to the digital world, we think the adoption of such a charter remains desirable to establish coherent guiding principles (that take into account the interdependent nature of basic rights) likely to guide:

- The courts and other authorities that interpret the laws;
- The government, in the development of public policies and in the exercise of its regulatory power;
- Lawmakers, in reforming existing laws or developing new laws.

Moreover, while serious concerns exist about the implementation of a document of strictly national scope (given the international nature of the Internet network), the way of designing and developing such a charter could help appease those concerns.

Our report's overview of the various debates identified in the literature is followed by an analysis of four codification initiatives developed or adopted abroad in recent years, i.e. the *Charter of*

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Human rights and principles for the Internet (reference document of the UN's Internet Governance Forum), the *African Declaration on Internet Rights and Freedoms* (reference document of African civil society), the *Marco Civil da Internet* (Brazil's framework law) and the *Dichiarazione dei dritti in Internet* (Italian declaration).

What solutions did those documents' respective authors find or adopt regarding the various theoretical debates? What treatment did they reserve for the right to Internet access and the right to online privacy, both rights being specific concerns among Canadian Internet users?

Our analysis of those different initiatives enabled us to identify certain recurrent (and necessary) aspects of any such initiative. Among those aspects are a nearly systematic recognition of certain basic rights specific to Internet users (Internet access, online access to information and knowledge, privacy and protection of personal information online, freedom of expression on the Internet, and Net neutrality). Also noteworthy is the procedure for producing such charters: multilateral, inclusive and transparent. The four documents studied have all been drafted by groups or committees formed by a variety of actors and/or organizations (governments, private companies, civil society, intergovernmental organizations). Even in the initiatives of the Brazilian and Italian governments, we note the lawmakers' willingness to include non-governmental actors in the development and drafting phases of the documents. In addition, we observe a willingness to involve the general public in the development of the codification documents studied, particularly by means of official online platforms for collecting the general public's comments on the projects.

In the light of that study of the literature and foreign initiatives, we analysed the Digital Charter recently announced by the federal government. Unfortunately, the result is unsatisfactory, because the document doesn't meet any of the concerns identified in this report (i.e. those expressed by authors and by those who drafted the instruments adopted or discussed internationally) and in no way fulfils the functions that should be those of a charter.

And yet, some of the principles in the Canadian Charter would have deserved the status of rights and a formal recognition as such (Internet access, users' increased control over their online personal data) but other principles, just as important, are cruelly absent (no mention of Net neutrality or Internet governance). The inadequate consultation process may explain this result, as may the avowed concern for economic interests, with which, in the chosen approach, an arbitration process should take place.

Accordingly, work remains to be done in the development of a true charter of Internet users' rights in Canada.

The main recommendations concluding our report are: holding real consultations to obtain the adherence of as many people as possible, if not everyone, to the document produced; taking into account the codification initiatives developed or adopted abroad in recent years regarding Internet users' rights, while considering the specific needs of Canadian Internet users, if applicable; and involvement within relevant international organizations and/or forums to work on developing common international policies regarding Internet users' rights.

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