



BACKGROUND

PRIVATE SECTOR PRIVACY IN BRITISH COLUMBIA

Private sector privacy is increasingly a public priority across Canada. Surveys have shown a consistently high level of public concern over privacy issues — and a reluctance to fully embrace electronic commerce because of a fear of exchanging personal information over the Internet.

Privacy and data protection issues are also an international priority. As early as 1980, the Organization for Economic Cooperation and Development (OECD) issued the Guidelines on the Protection of Privacy and Transborder Data Flows of Personal Data. Canada became a signatory to these guidelines in 1984.

In October of 1998, the European Union took a significant additional step in regulating private sector privacy through its Data Protection Directive. The European Union directive regulates all data transfers to and/or from European Union states. This will prevent data sharing with jurisdictions, including Canada, which do not have an equal level of data protection.

From within Canada, there are pressures for private sector privacy from a range of interests and sectors. Most jurisdictions now have in place strong privacy legislation for personal information held by the public sector. However, neither the federal government nor the provinces, with the exception of Quebec, has privacy regulation for the private sector.

One response to the issue of private sector privacy is the Canadian Standards Association Model Privacy Code (CSA Code). This Code represents a considerable achievement — a collaborative effort by consumers, industry and government to codify a set of privacy protection principles that could be understood and implemented by all types and levels of business. Many Canadian businesses have implemented the CSA Code and it is being considered by the International Standard Organization (ISO) as an international standard of fair information practice.

Following on the heels of the collaborative work of the CSA Code, the federal government involved business, consumers protection groups and government in a legislative consultation process. This process culminated in the introduction, on October

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1, 1998, of the federal Bill C-6, the *Personal Information and Electronic Documents Act*. It is significant that Bill C-6 incorporates the CSA Code as its statement of privacy protection principles.

Bill C-6 is expected to pass by the end of 1999, and will provide privacy protection to any personal information held by federally regulated businesses. Three years after coming into force, however, Bill C-6 will also cover provincially regulated commercial activity unless a province has enacted private sector privacy legislation acceptable to the federal government. While most provinces have endorsed the privacy protection goals of Bill C-6, many provinces, including British Columbia, have expressed concerns with the proposed method of covering provincial commercial activity. Apart from the jurisdictional issue, initial analysis has shown that coverage by Bill C-6 will leave some important types of personal information uncovered (e.g., personal information of provincial private sector employees).

The federal government has presented Bill C-6 as a foundation stone for Canada to take advantage of the economic opportunities presented in the global electronic marketplace. The task for British Columbia — 1) to respond to the growing privacy concerns of consumers without creating unnecessary bureaucracy for businesses, and, 2) to ensure that businesses are positioned to continue to take advantage of international commercial opportunities, particularly in electronic commerce.

Some British Columbia businesses, prompted by consumer concerns, have either adopted the principles of the CSA Code or developed sector codes of their own, often based on this Code. It is the intention of government to build on the efforts of British Columbia business and develop a response to private sector privacy, which is sensitive to needs and concerns of British Columbians.

On November 27, 1998, British Columbia's Information, Science and Technology Agency and Industry Canada hosted a meeting with a group of business representatives to discuss the federal Bill C-6 and explore the unique needs of British Columbia concerning privacy regulation to the private sector. ISTA has also held a series of informational meetings with Chamber of Commerce throughout British Columbia.

In July 1999, the British Columbia government appointed an all-party Special Committee to review and make recommendations on the protection of personal information in private sector transactions and the impact of electronic documents on privacy and freedom of information for British Columbians.

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