

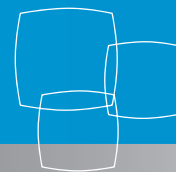


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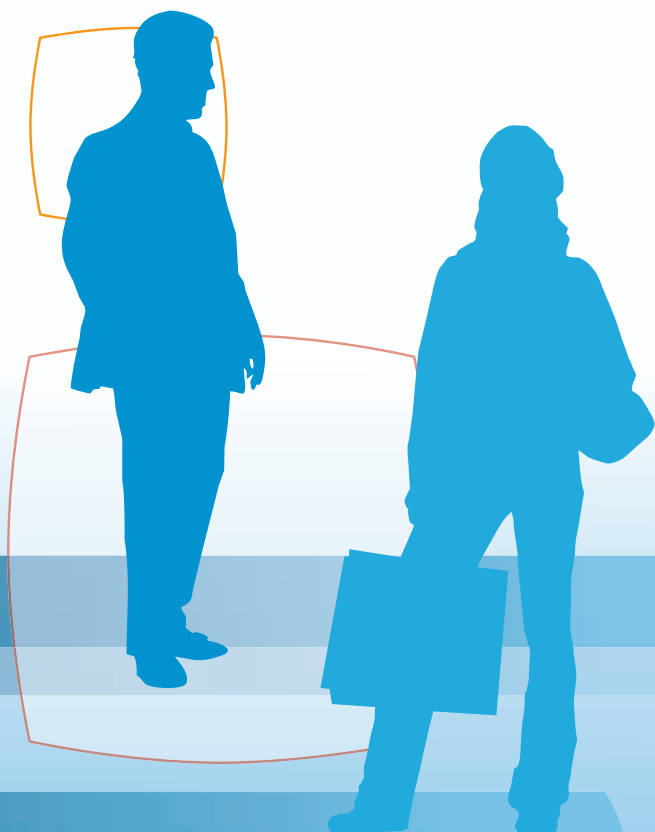
Industrie  
Canada

## ACCESS TO INFORMATION ACT

<http://www.ic.gc.ca/eic/site/atip-aiarp.nsf/eng/home>



### 2009-2010 Annual Report on the Access to Information Act



Canada

**2009–10**  
**Annual Report**  
**on the**  
*Access to Information Act*

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## **PREFACE AND PURPOSE**

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The *Access to Information Act* (Revised Statutes of Canada, Chapter A-1, 1985) was proclaimed on July 1, 1983.

Section 2 of the *Access to Information Act* gives Canadian citizens and permanent residents a broad right of access to information contained in government records, subject to certain specific and limited exceptions.

Section 72 of the *Access to Information Act* requires that the head of every government institution prepare, for submission to Parliament, an annual report on the administration of the Act within the institution during each financial year.

This annual report describes how Industry Canada administered its responsibilities in the twenty-seventh year of operation of the *Access to Information Act*.

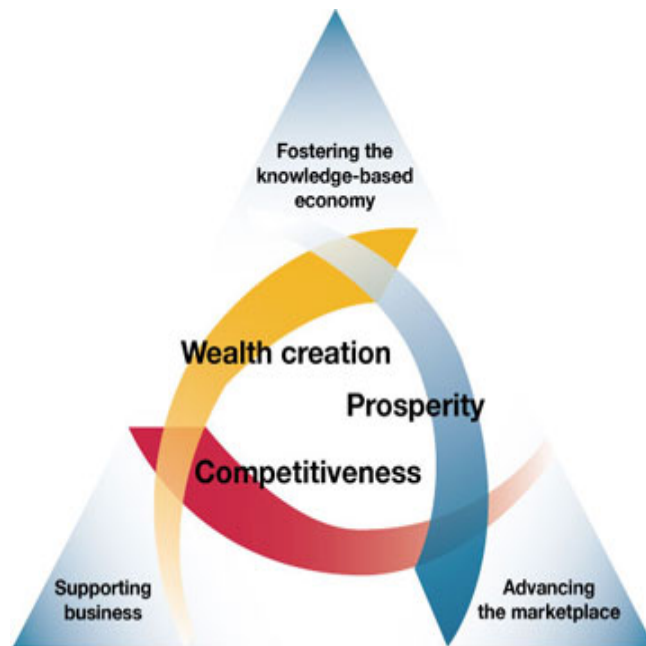
## ABOUT THE ORGANIZATION

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### Industry Canada's Mission and Mandate

Industry Canada's mission is to foster a growing, competitive, knowledge-based Canadian economy. The Department works with Canadians throughout the economy, and in all parts of the country, to improve conditions for investment, improve Canada's innovation performance, increase Canada's share of global trade, and build an efficient and competitive marketplace.

Industry Canada's mandate is to help make Canadian industry more productive and competitive in the global economy, thus improving the economic and social well-being of Canadians. The many and varied activities Industry Canada carries out to deliver on its mandate are organized around three interdependent and mutually reinforcing strategic outcomes, each linked to a separate key strategy. The key strategies are shown in the illustration below.



- **The Canadian marketplace is efficient and competitive**

#### *Advancing the marketplace*

Industry Canada fosters competitiveness by developing and administering economic framework policies that promote competition and innovation; support investment and entrepreneurial activity; and instill consumer, investor and business confidence.

- **Science and technology, knowledge, and innovation are effective drivers of a strong Canadian economy**

*Fostering the knowledge-based economy*

Industry Canada invests in science and technology to generate knowledge and equip Canadians with the skills and training they need to compete and prosper in the global, knowledge-based economy. These investments help ensure that discoveries and breakthroughs take place here in Canada and that Canadians realize the social and economic benefits.

- **Competitive businesses are drivers of sustainable wealth creation**

*Supporting business*

Industry Canada encourages business innovation and productivity because businesses generate jobs and wealth creation. Promoting economic development in communities encourages the development of skills, ideas and opportunities across the country.

## **Context and Environment**

Industry Canada works on a broad range of matters related to industry and technology, trade and commerce, science, consumer affairs, corporations and corporate securities, competition and restraint of trade, weights and measures, bankruptcy and insolvency, patents and copyright, investment, small business, and tourism.

Given the role the Department plays in promoting economic development and regulating the marketplace, there is significant public interest in the information collected and produced. Key areas of interest in 2009-10 included the auto industry, tourism, small business, as well as various statutes, namely the *Competition Act*, the *Canada Investment Act* and the *Copyright Act*.

In 2009-10 Industry Canada played an important role in implementing the Government of Canada's [Economic Action Plan](#) (EAP), introduced in January 2009 as part of Budget 2009. The EAP focuses on ensuring Canada makes a quick recovery from the global recession, sustains long-term economic growth at home and plays a leading role in the coordinated international effort to produce a worldwide economic recovery.

The high profile EAP initiatives implemented by Industry Canada included distribution of stimulus funding to traditional industries, including the manufacturing sector, and providing assistance to the Canadian automotive sector to support the



orderly restructuring of this critical industry, with the goal of maintaining Canada's share of North American production.

In addition, through the Knowledge Infrastructure Program, the Department is providing \$2 billion over two years to create jobs in communities across Canada by revitalizing research and training facilities at Canadian universities and colleges. These initiatives have generated significant public interest in the activities of the Department.

## **Departmental Structure**

The Department employs 5800 professionals across the country, including economists, engineers, scientists, commerce officers, inspectors, metrologists, statisticians, accountants and lawyers, supported by others carrying out corporate functions such as human resources and financial management, communications, and information management/information technology support.

The Department is organized into 11 sectors and four corporate branches (see [www.ic.gc.ca](http://www.ic.gc.ca)). In addition to its headquarters and other offices in Ottawa, the Department has five [regional offices](#) (Pacific, Prairie and Northern, Ontario, Quebec, and Atlantic), located in Vancouver, Edmonton, Toronto, Montréal and St. John's, respectively. The Department's regional presence also encompasses the Federal Economic Development Initiative of Northern Ontario (FedNor) and the Federal Economic Development Agency for Southern Ontario (FedDev Ontario).

Each of these sectors and branches are responsible for searching and retrieving documents responsive to official access requests received under the *Access to Information Act* and *Privacy Act* (ATIP). However, Information and Privacy Rights Administration (IPRA) is legally responsible for implementing and managing the ATIP program and services for Industry Canada, including decisions on the release or non-release of information pursuant to the legislation.

## **Information Management Branch**

Given that the effective management of information is critical to the administration of the *Access to Information Act* and *Privacy Act*, IPRA resides with the Information Management Branch (IMB), a branch in Small Business and Marketplace Services Sector (SBMS). IMB directs and supports an Information Management (IM) program to ensure the effective and efficient management of information within Industry Canada. The IM program provides strategic direction and services related to recordkeeping, public access to departmental information, departmental access to commercially published information and information management policy, accountability, governance, planning and reporting. As a result, departmental program

managers can more readily deliver their programs and services, as well as meet their obligations under the Government's Policy on Information Management, the *Library and Archives Canada Act*, the *Access to Information Act*, the *Privacy Act* and the *Federal Accountability Act*. Further, it ensures that the Department respects the intellectual property rights of commercial publishers.

IMB provides services to the Department from four Directorates: Corporate Integrated Records Services (CIRS), the Library and Knowledge Centre (LKC), IM Policy, Planning and Innovation (IMPPI), and Information and Privacy Rights Administration (IPRA).

### **Information and Privacy Rights Administration**

IPRA is responsible for the implementation and management of the *Access to Information Act* and *Privacy Act* programs and services for Industry Canada. Specifically, IPRA makes decisions on the disposition of access requests; promotes awareness of the legislation to ensure departmental responsiveness to the obligations imposed by law; monitors and advises on departmental compliance with the Acts, regulations, procedures and policies; and acts as the spokesperson for the Department when dealing with the Treasury Board Secretariat, the Information Commissioner, the Privacy Commissioner, and other government departments and agencies. IPRA is also responsible for conducting consultations with other federal departments with respect to access to information and privacy issues.

IPRA has a complement of 15 employees including one Director, three managers, nine advisors and two support staff, all of whom are dedicated to processing access and privacy requests, along with related functions.

### **Delegation of Authority**

The current Access to Information and Privacy (ATIP) Delegation Order was approved by the Minister in July 2009, and provides full-delegated authority to the Assistant Deputy Minister of SBMS, the Director General of IMB, the Director and the managers of IPRA. The designation of the Director General position is for purposes of providing strategic support and advice to the executive management of the Department concerning ATIP issues, if and when required. For all daily ATIP activities and operations, the Director and the managers of IPRA exercise full responsibility (see Appendix III).

The Director of IPRA is responsible for the development, coordination and implementation of effective policies, guidelines and procedures to manage the Department's compliance with the Acts. The administration of the legislation in Industry Canada is managed by IPRA, but is also facilitated at the sector, branch and

regional office levels. Each sector and corporate branch has an ATIP Liaison Officer (reporting to an Assistant Deputy Minister, Regional Executive Director, etc.) who coordinates activities and provides guidance on the administrative processes and procedures of the Acts. IPRA, which is located in Ottawa, responds to all formal requests submitted under the applicable Acts.

## **2009–10 Highlights**

### **CHALLENGES AND ACCOMPLISHMENTS**

- ***Volume of Work***

In 2008-09 and again in 2009-10, there was a significant increase in the level of interest in specific activities, particularly related to the Economic Action Plan initiatives managed by Industry Canada. This resulted in a sizable increase in the number of requests received, the volume of documentation requested and the complexity level of files.

In 2009–10, the Department received 467 new access requests and continued to process 252 outstanding cases from previous years, for a total workload of 719 requests. In addition, the Department received 124 consultation requests from more than 28 other government departments/agencies. Overall, the Department completed a total of 590 requests (463 access and 127 consultations) as compared to 653 (526 access and 127 consultations) the previous year. The volume of documents reviewed and under review at the end of March 2010 also significantly increased, to more than 1 472 785 pages, as compared to 690 000 reported the previous year. Despite these challenges, Industry Canada managed to achieve an on-time compliance level of 80 percent, an average rating of “C”, as per the Information Commissioner’s report card process.

- ***Backlog of Cases***

In 2008-09, the Department reported 660 new access requests received, completed 526, and carried over 252 active cases into the fiscal year 2009-10. During this reporting period, the Department received 467 new requests, completed 463, and carried forward 256 requests into 2010-11. Although IPRA completed a significant number of requests during both fiscal years (1243), it still generated a backlog of requests to manage.

In 2009-10, a strategy was developed and a number of activities implemented to address the backlog (see “Strategies and Initiatives” in the next section).

- ***Increased Scrutiny from Oversight Bodies and Increased Complaints***

The significant increase in the public interest and subsequent influx of requests also generated an unprecedented increase in the number of complaints received in 2008-09. A total of 89 complaints were received as compared to an average of 18 per year prior to that fiscal year. Of the 89 complaints, 62 investigations were completed and 27 remain outstanding. This resulted in Industry Canada becoming one of 24 departments subject to the Information Commissioner of Canada's Report Card process.

In 2009-10, 47 new complaints were received, a 47 percent decrease from 2008-09, but still a higher number of complaints than previous years (see page 20 for more detail).

The increase in complaints and scrutiny has resulted in an increase in workload. IPRA has now dedicated one employee to assist in managing the complaint investigations, working directly with investigators from the Information and Privacy Commissioners' Offices, liaising between investigators and department officials, providing documentation, rationales and responding to questions to resolve and conclude as many complaints as possible.

- ***Resources – Human and Financial***

In 2009-10, IPRA continued to face challenges in managing and retaining staff to perform its daily operations and meet its legal compliance requirements. A new organizational structure was implemented to better meet the increasing business demands and to allow IPRA to expand on policy advice and outreach services; however, there was no change to the overall resourcing. IPRA now consists of three teams (see Appendix II), with two teams responsible for the daily operations and one for policy and outreach. IPRA continues to operate within an allocation of 15 full-time employees and an operating budget of approximately \$1.2 million.

In order to be more competitive in a high demand market, and to be more attractive as an employer, IPRA provides career progression opportunities with the use of the ATIP Professional Development Program (ATIP-PDP). IPRA has also been innovative in using inter-departmental staffing processes and other recruitment/staffing tools, which have positively improved recruitment outcomes.

- ***Resources and Workload***

Of the 15 IPRA positions, 13 were staffed for the majority of the reporting period. The 13 positions consisted of the Director, three managers (PM-06), three senior advisors (PM-05), three advisors at the PM-04 level and one at the PM-03 level, plus

two support positions (PM-02 and AS-01). During part of the reporting period, a consultant was hired to assist with the workload.

Of the 13 employees, seven advisors were responsible for processing the 590 completed requests. Each advisor completed on average 84 cases totaling more than 1 154 000 pages. In addition to responding to official requests and complaints, IPRA also provides ongoing advice and guidance to departmental employees.

In 2009-10, the policy and outreach unit, consisting of two people (PM-06 and PM-05), was responsible for maintaining the various partnerships with other functional areas, overseeing various projects/initiatives (e.g., ATIP case management tool, IM initiatives, Info Source Renewal, etc.), and delivering ATIP advice/guidance including providing training and awareness sessions across the Department. They completed the following activities:

<b>ACTIVITY</b>	<b>TOTAL</b> (Questions/Reviews /Emails/ Reports, etc.)
Provide ATIP guidance and advice to Industry Canada officials	56
Provide ATIP advice to OGDs	36
Review of audit and evaluation reports prior to being publicly posted on the departmental website	10
Review of parliamentary questions and responses	83
Review of proactive disclosures prior to being publicly posted on the departmental website	955 (Emails)
Prepare and deliver ATIP training/awareness sessions to departmental officials	23
Review and approval of Preliminary Privacy Impact Assessments/Privacy Impact Assessments	20
<b>OTHER</b>	
Update to IPRA public website	X
Preparing and tabling annual reports and statistical reports	X
Input to MAF and DPR (ATIP user fees)	X
Managing Info Source updates and providing submission to TBS	X
Review and update business practices and procedures for IPRA	X
Participate in various initiatives across IC (e.g., enterprise wiki, IM initiatives (IM outcomes, Business-Based Classification System, etc.)	X

## **IPRA - ATIP Policies, Procedures and Business Practices**

IPRA ensures that Treasury Board ATIP policies are respected and implemented in the form of internal guidelines, procedures, and business practices. This has allowed IPRA to increase performance and efficiency in managing the ATIP programs and services for the Department. The areas covered include the following:

### ***Complexity Level of Requests***

Defining the complexity levels of requests has allowed IPRA to better manage workload and positively impact performance, in particular, when assigning cases to appropriate level officers.

In building its definitions, IPRA reviewed other jurisdictions and found that a number of provinces were also using similar descriptions in defining the complexity level of requests received pursuant to their respective legislation. IPRA has described the complexity level from low to high as noted below:

<b>Level 1 (low)</b>	<b>Level 2 (moderate)</b>	<b>Level 3 (high)</b>
<ul style="list-style-type: none"> <li>- Fewer than 100 pages</li> <li>- Full disclosure and/or minor severances</li> <li>- Minimal number of interests in the file, if any (limited or no consultations)</li> <li>- Exemption application, if any, is consistent</li> <li>- Disclosure of previously released information</li> <li>- Informal disclosure</li> </ul>	<ul style="list-style-type: none"> <li>- Fewer than 2000 pages</li> <li>- Involves more than one area of the Department</li> <li>- Partial disclosure or full exemption due to limited number of exemptions with appropriate arguments</li> <li>- Reasonable number of consultations with other government departments (OGDs) and third parties (less than 10)</li> <li>- Track and monitor significant number of administrative activities such as consultations, updates, follow-ups, etc.</li> </ul>	<ul style="list-style-type: none"> <li>- More than 2000 pages</li> <li>- Information is intertwined</li> <li>- Involves one or more areas of the Department</li> <li>- A number of entities are involved</li> <li>- Disclosure is influenced by other legal authorities/obligations (e.g., other governments, other statutes, third party, etc.)</li> <li>- May require legal services to provide opinion and/or comments</li> <li>- Subject issue may be high profile and sensitive</li> <li>- May require the need to advise senior management of the outcome due to subject matter</li> <li>- May require multiple consultations with OGDs, third parties and other levels of government (in excess of 10)</li> <li>- Variety of exemptions invoked with a mixture of mandatory and discretionary exemptions</li> </ul>
<p>Examples:</p> <ul style="list-style-type: none"> <li>- Temp Help contracts</li> <li>- List of terms/casuals</li> <li>- List of contracts</li> </ul>	<p>Examples:</p> <ul style="list-style-type: none"> <li>- Telecommunication files</li> <li>- Bankruptcy files</li> <li>- Contracts and deliverables</li> </ul>	<p>Examples:</p> <ul style="list-style-type: none"> <li>- Copyright reform</li> <li>- <i>Competition Act</i> requests</li> </ul>

In 2009-10, IPRA found that of the 463 access cases completed, 51 percent were of level 1 complexity, due mainly to routine cases and large number of re-released information, 29 percent were of level 2 complexity, and 20 percent were of level 3.

### ***Duty to Assist***

Over the years, IPRA has implemented various approaches to better assist and respond to applicants. Established practices include the following:

- The applicant's identity is not considered during the processing of a request, nor is it revealed to departmental officials, unless there is a need to know to retrieve information and/or if consent is provided by the applicant;
- Regular communication is established with applicants to clarify and narrow requests, provide updates and explain the ATI process and rights pursuant to the Act;
- Accurate, timely and complete responses are compiled in good faith. Alternate solutions may be suggested, such as previously released, or publicly accessible information, and, if applicable, referrals to other organizations involved;
- Records are provided in the format requested. Since 2001, IPRA has been providing processed documents on CD-ROM in PDF format at no cost to the applicant. At times, releases of data extracts are provided in Excel, Lotus and/or ASCII format. If the material is less than 50 pages, a hard copy is provided; and,
- Other practices involve facilitating discussions and/or meetings with program officials, providing interim responses when possible and limiting fees charged to the applicant where possible.

### ***Strategies and Initiatives to Increase Performance and Compliance***

In 2009-10, IPRA developed and launched a number of strategies, initiatives and activities to manage the increasing volume of work, the large backlog and increased number of complaints, while still ensuring that the Department respects its legal ATIP obligations.

Initiatives and activities implemented to assist in increasing compliance and reducing delays in responding to applicants include the following:

- Negotiating with applicants to reduce scope and offering alternatives, be it previously released information, publicly accessible documentation, or informal discussions with program officials;
- Increased communication with applicants and provision of status updates on requests;

- Increased ATIP training of Industry Canada employees, to improve response times and deliverables;
- Working closely with program officials to develop work plans and strategies for improving responses to requests;
- Communicating and negotiating with third parties and other stakeholders (e.g., other jurisdictions) concerning the disclosure of their information in response to requests;
- Providing applicants with information on CD-ROM; and,
- Implementing a new ATIP case management tool to improve efficiency.

To address the backlog, IPRA developed an action plan and implemented the following activities:

- Reviewed caseload and established priorities;
- Communicated with applicants to confirm continued interest in requests that are carried forward;
- Ongoing review and assessment of priorities and regular monitoring of work completed;
- Negotiated with applicants to reduce scope and/or volume of materials relating to large files;
- Ongoing review and streamlining of internal business practices to reduce delays;
- Amalgamated requests where possible to maximize efficiency and processing;
- Hired a consultant to help with the backlog; and,
- Authorized overtime for staff to focus on specific files.

To better manage the increased number of complaints and related workload, IPRA established the following:

- Identified one contact person within IPRA to communicate with the investigators from the Offices of the Information and Privacy Commissioners (OIC/OPC);
- Implemented protocols and created templates to better respond to investigators in the course of the initial requirements of investigations;
- Monitored and reported on active and completed complaints;
- Assessed and reviewed the active complaints to establish priorities;
- Identified complaints that could be addressed and completed in a timely manner; and,
- Provided OIC/OPC with proposals of possible complaints that could be investigated and concluded in a timely manner.



## ***Partnerships***

Over the past years, in an effort to mitigate risks and better manage workload, IPRA established a number of working partnerships with core administrative functional areas. These partnerships have continued to flourish, and include the following:

### **Audit and Evaluation Branch (AEB)**

- Ongoing reviews of audit and evaluation reports, including management responses, prior to their being posted on the departmental website.

### **Corporate Integrated Records Services (CIRS)**

- Providing guidance and advice on issues related to retention/disposal, ownership and control of documents in keeping with legal and accountability requirements.

### **Comptrollership and Administration Sector (CAS)**

- Informal working relationship with Security Services reviewing departmental policies and directives, and providing advice as required.
- Providing input to CAS concerning element 12 (information management) in the Management Accountability Framework (MAF).

### **Corporate and Portfolio Office (CPO)**

- Reviewing and approving the final responses to parliamentary questions and motions for the production of papers, in accordance with the ATIP provisions.

### **Human Resources Branch (HRB)**

- Partnering in the delivery of orientation sessions to new employees joining Industry Canada.

## ***Information Management Initiatives***

As noted earlier, effective and efficient information management is crucial to IPRA maintaining its high-level performance and ensuring compliance with its legal obligations. IPRA contributes to a multi-year IM Agenda which guides the Department in delivering on its long-term Information Management (IM) program objectives, which are to support program and service delivery, foster informed decision-making, facilitate accountability, transparency and collaboration, and preserve access to information and records for the benefit of present and future generations. Initiatives under the IM Agenda are designed to achieve the following outcomes:

- **Effective IM Governance** – The continuous and effective management of information is assured through appropriate governance structures, policies and guidelines.

- IM Informed Workforce – Employees have the know-how and expertise to manage and access information to support business outcomes.
- Sustainable Corporate Support – Corporate IM tools based on effective standards, methods and practices are in place, supported by a sustainable info-structure and infrastructure.

### ***ATIP Case Management Tool***

IPRA is implementing a new electronic ATIP Case Management tool. This new tool will improve monitoring and tracking, as well as address the increased reporting requirements, thereby allowing IPRA to manage its day-to-day workflow more effectively.

### ***Education and Training Activities***

Enhanced awareness and knowledge of ATIP obligations on the part of departmental officials improves compliance with legal obligations, turnaround times, and the quality of responses.

In 2009-10, IPRA prepared and delivered 23 ATIP training sessions (including one to regional officials) and reached more than 600 employees. Upon request, sessions are tailored to suit the needs of a specific group. In addition to these formal sessions, an intranet site is used to create awareness and disseminate information to employees.

IPRA also worked with other IM domains to develop and deliver a more integrated IM outreach program to departmental officials. Messages highlighted the connections and inter-dependence existing between the ATIP functions and information management activities such as security classification, retention/disposal and business value of information, as well as providing practical tips and best practices.

### ***ATIP — Professional Development Program***

Industry Canada's ATIP — Professional Development Program (ATIP-PDP) has been in effect since 2005. Its purpose is to develop employees from the PM-01 to the PM-04 level within the ATIP function. The program's objective is to provide management with a tool to recruit, train and retain resources interested in building a career in the ATIP field. The program has proven effective in the recruitment and development of resources. It has also reduced the number of lengthy staffing processes and actions, and has had a positive influence on retention and succession planning.

### ***Use of CDs***

This initiative has reduced paperburden and eliminated reproduction fees and on-site visits from applicants, as well as improved timeliness and efficiency in managing the ATIP program and services. The Department does not charge for CDs.

### ***Fees***

The *Access to Information Act* permits the waiving of fees when a request is deemed to be in the public interest. The Department routinely waives fees under \$25 in accordance with Treasury Board policy and guidelines.

### ***Informal Practices***

Consistent with the principle that the Act is intended to complement, rather than replace, existing procedures for access to government information, informal requests may be addressed directly to branches within the Department. IPRA routinely directs requesters to the relevant sectors with public research centers or public sites.

### ***Publicly Accessible Information, Website and Enquiry Points***

The Department is broad and diverse in nature, and manages various distinct laws that legally allow for publicly accessible information. Industry Canada has a comprehensive website and provides a number of enquiry points where the public may submit a query and obtain information on an informal basis:

- ▶ ic.gc.ca
- ▶ Canada Business
- ▶ Canadian Consumer Information Gateway
- ▶ Canadian Intellectual Property Office
- ▶ Corporations Canada
- ▶ Office of the Superintendent of Bankruptcy

### ***ATIP Website***

IPRA also has its own internet site ([www.ic.gc.ca/eic/site/atip-aiprp.nsf/eng/home](http://www.ic.gc.ca/eic/site/atip-aiprp.nsf/eng/home)). The site contains general information, points of contacts and links to other key departments and agencies, including the ATIP Offices for the Industry Portfolio.

### ***Info Source***

IPRA is responsible for providing a full accounting of the Department's information holdings to the Treasury Board Secretariat and it ensures that updates are provided on a timely basis for inclusion in Info Source. Info Source may be obtained through public and academic libraries, or may be viewed online at [www.infosource.gc.ca/index-eng.asp](http://www.infosource.gc.ca/index-eng.asp).

### ***Reading Rooms***

A reading room is available at Industry Canada headquarters and in all regional offices as required. Current departmental manuals are available for review by the public upon request. The manuals may also be provided electronically.

### ***Section 67.1 — Obstructing Right of Access***

An internal policy and directives concerning Section 67.1 of the *Access to Information Act* have been implemented in association with the Department's internal security services.

## **ACCESS TO INFORMATION — TRENDS AND STATISTICS**

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### **Significant Trends**

Historically, businesses and organizations (e.g., political parties and associations) have accounted for about 60 percent of the ATI requests received by the Department. In this fiscal year, the public accounted for 24 percent of requests received, and became the second most frequent type of user after businesses (31 percent of requests). These statistics differ somewhat from fiscal year 2008-09, when media were the second most frequent user (29 percent of requests). Also noted this fiscal year is the increase in requests received from academia, to 19 percent from 15 percent in the last reporting period.

In 2008-09, IPRA reported a significant carry-forward of requests (252) and again, has reported another sizable carry-forward of 256 requests for this reporting period. Although IPRA endeavoured to complete as many requests as possible in a timely fashion, and continued to receive the ongoing support and cooperation from the Department, the on-time compliance achieved at the end of March 2010 was 80 percent, as compared to the 91 percent reported in 2008-09. The significant increase in the volume of records, the sizable backlog of requests and the resources available have negatively affected the level of compliance, and will continue to do so until the backlog is reduced.

In 2009-10, the volume of requests decreased by 29 percent with 467 new requests received compared to 660 new requests from the previous reporting period. However, the large carry-forward of more than 250 requests for the past two years has created a backlog situation never experienced before by IPRA. In addition, the volume of records has continued to escalate, with more than 1 472 785 pages processed, compared to 690 000 pages during last reporting period. As a result, the average file size is now about 2 500 pages, compared to 1 045 pages the previous year. This increase in page volume was predominantly the result of public interest in such topics as the copyright legislation, gas pricing, the auto industry, tourism events, various investment reviews and competition issues.

Of the 463 access requests processed and completed during this reporting period, 16 percent were informal requests (72 compared to 159 reported in the previous fiscal year). This decrease was due to a reduced level of interest in the gas pump measurement accuracy issue, and fewer repeat requests for the gas pump inspection reports produced by Measurement Canada.

## **Statistical Report — Interpretation and Explanation**

A summarized statistical report on *Access to Information Act* requests processed from April 1, 2009 to March 31, 2010 is found in Appendix I. An explanation and interpretation of information contained in the appendix follows.

### **I. Requests Received Under the *Access to Information Act***

Of the 719 active requests processed during this reporting period, 252 were outstanding from previous years and 467 were new (256 were carried forward into the new fiscal year). The percentage breakdown of the new requests received by type of user was:

Business (incl. professional requesters)	31%
Media	19%
Public	24%
Academic	19%
Organization (incl. political parties, associations)	7%

### **II. Disposition of Requests Completed**

Of the 719 active requests, 463 (64 percent) were completed during the 2009-10 reporting period. The completed requests are categorized as follows:

**All Disclosed** — in 68 of the 463 requests completed, the requesters were provided with full access to the relevant records.

**Disclosed in Part** — in 187 cases, the requesters were granted partial access.

**Nothing Disclosed (Excluded)** — there were seven requests for which information could not be disclosed because all of the information was excluded under the Act.

**Nothing Disclosed (Exempt)** — there were 18 requests for which information could not be disclosed because all of the information was exempt under the Act.

**Transferred** — three requests concerned records that were not under the control of the Department. After initial processing, these requests were transferred to the appropriate government institution in accordance with the Act.

**Unable to Process** — the Department was unable to process 79 requests. The most frequent reason was that no relevant records were found to exist within the Department.

***Note:** In total, 18 percent of the cases were transferred or could not be processed. However, these cases still involve a certain amount of work, be it research,*

*administrative activities, negotiations with applicants and other government departmental officials, and discussions with departmental employees, prior to determining their disposition.*

**Abandoned by Applicant** — 29 requests were abandoned by the applicant. Such an action may occur at any stage of the process.

**Treated Informally** — in 72 cases, it was determined that the information could be released informally rather than through the formal procedures of the Act.

### **III. Exemptions Invoked**

As noted in Appendix I, exemptions pursuant to sections 13–16, 18–24 and 26 of the *Access to Information Act* were invoked by the Department. It should be noted that if five different exemptions were used in one request, one exemption under each relevant section would be reported for a total of five. If the same exemption is used several times for the same request, it is reported as one.

The statistics show that although IPRA has invoked all of the applicable exempting provisions of the Act, sections 15, 19, 20, 21, 23 and 24 remain the most frequently used. This reflects the nature of the information held by the Department (i.e.: international issues, third party, personal, advice/recommendations, and other statutes).

Although the Department has four statutes recognized under the *Access to Information Act* pursuant to section 24, exemptions are most frequently applied to information subject to the *Competition Act* and the *Investment Canada Act*.

### **IV. Exclusions Cited**

The *Access to Information Act* does not apply to published material, material available for purchase by the public, or confidences of the Queen's Privy Council for Canada, pursuant to sections 68 and 69 of the Act, respectively. As in the case of exemptions, Appendix I shows the types of exclusions invoked to deny access.

### **V. and VI. Completion Time and Extensions**

Of the 463 completed cases, the Department was able to respond within the legislated 30 days or less in 271 cases, or 59 percent of the time. 41 percent of the completed cases required extensions under the Act to allow external consultation with third parties, and other government departments and agencies, and had the following response times: 10 percent within 31 to 60 days, 12 percent within 61 to 120 days and 19 percent over 121 days.

## **VII. Translations**

There were no requests for which the records required translation.

## **VIII. Method of Access**

In 255 cases, documents were released and the requesters received copies of the material that they were seeking either through hard copies or on CD. It should also be noted that since implementing the use of CDs in 2001, there has been no request for on-site examination.

## **IX. Fees**

The *Access to Information Act* authorizes fees for certain activities related to the processing of formal requests under the Act. In addition to a \$5 application fee, search, preparation and reproduction charges may also apply. The current fee structure is specified in the *Access to Information Regulations*. No fees are imposed for reviewing records, overhead or shipping costs. Moreover, in accordance with Section 11 of the Act, no fees are charged for the first five hours required to search for a record or prepare any part of it for disclosure. The *Access to Information Act* permits the waiving of fees when a request is deemed to be in the public interest.

The fees collected during the reporting period totaled \$1 680, which is approximately half the amount collected in 2008–09. This decrease reflects the significant increase in informal disclosures (i.e., re-releases) completed by the Department, where no fees are applied. Fees waived during 2009–10 totaled \$2 810.

Total fees collected in 2009–10 represented less than 0.1 percent of the Department's total administration costs of \$1 240 225.

## **X. Costs**

Total salary costs associated with *Access to Information Act* activities were estimated at \$1 058 557 for this reporting period. Non-salary costs were estimated at \$181 668 for a total cost of \$1 240 225. The associated human resources (including both IPRA and departmental officials) required to fulfill this function were estimated at 15 full-time employees.



## **Complaints, Investigations and Appeals**

Applicants have the right of complaint pursuant to the Act and may exercise this right at any time during the processing of their request. The Department received a total of 47 complaints during this reporting period, as compared to 89 the previous year. This is a 47 percent decrease from the 2008-09 reporting period.

In reviewing the types of complaints received, 55 percent relate to the exempting provisions applied. Following investigations, the Office of the Information Commissioner concluded 23 complaints as noted below. At the end of this reporting period, a total of 24 complaints were still under investigation.

<b>Type of Complaint</b>	<b>Received</b>	<b>Concluded (finding)</b>	<b>Active</b>
Delay	7	5 - Well-Founded / Resolved	2
Extension	2	1 – Not Well-Founded 1 – Resolved	0
Exemptions	26	4 – Discontinued 2 – Not Well-Founded	20
Exclusions	N/A		N/A
Fees	N/A		N/A
Miscellaneous (i.e.: more records may exist, other administrative actions)	1	1 – Well-Founded / Resolved	0
General Refusal (i.e.: did not meet legal deadline, additional records should exist, etc.)	11	2 – Resolved 6 – Not Well-Founded 1 – Well-Founded / Resolved	2
Total	47	23	24

There were three appeals to the Federal Court of Canada during this reporting period. One appeal was discontinued and the remaining two are pending.

## **Changes Resulting from Issues Raised by Officers of Parliament**

### **Office of the Information Commissioner of Canada (OIC)**

In 2008-09, Industry Canada became one of 24 institutions subject to the Information Commissioner's Report Card Process. Industry Canada was one of five departments to achieve an above average rating with 91 percent on-time compliance (a B rating).

Although the report was positive, the Commissioner made the following five recommendations:

- 1. Given the additional level of authority added to the delegation order, Industry Canada's Access to Information Coordinator is to ensure that requests are approved and released with no additional delays.***

#### *Industry Canada Response*

- For practical and functional purposes, the Director (Coordinator) and the Managers of IPRA exercise full authority for all powers, duties and functions pursuant to access legislation that are required to perform daily operations, and to ensure compliance. The current existing delegation order has not impacted on compliance, nor has it created any additional delays in responding to formal requests.

- 2. Industry Canada develops a clear plan to tackle the backlog of access requests in order to improve overall compliance with the Act.***

#### *Industry Canada Response*

- IPRA has developed a strategy and implemented various initiatives to address the backlog situation (see pages 10-11). However, given the size of the backlog, any efforts to reduce it will take some time to take effect.

- 3. Industry Canada strives to reduce its deemed refusal rate to zero.***

#### *Industry Canada Response*

Industry Canada continues to endeavour to improve compliance, and to reduce the number of deemed refusal cases. IPRA has implemented a number of actions as described previously under "Strategies and Initiatives".

***4. Industry Canada review and continue to document the criteria it uses for extensions to ensure that they are reasonable and legitimate.***

*Industry Canada Response*

Industry Canada determines reasonable legal time extensions based on multiple factors on a case-by-case basis. For example, the Department will consider the number of consultations required on a given file, the volume of information to be consulted, and the time taken on previous similar cases. Industry Canada will also confer with certain key organizations on the timeliness of their consultation responses. As a standard practice, IPRA advisors will document the supporting facts as noted for each request.

***5. Industry Canada should comply with the Act and notify the Office of the Information Commissioner of all the extensions it takes for more than 30 days.***

*Industry Canada Response*

Industry Canada has an established business practice of sending copies of extension notices to the OIC when extensions for more than 30 days are taken, except in cases when extending pursuant to paragraph 9(1)(c). Existing form letters automatically include the sending of a cc to the OIC.

**The OIC Annual Report to Parliament**

In addition to the statistical information concerning complaints, there were two references to Industry Canada in the Information Commissioner's 2009–10 annual report published in June 2010. Industry Canada was ranked 11<sup>th</sup> of the 15 top institutions listed for 2009-10.

The report included a summary of a specific complaint deemed well-founded and not resolved by the Commissioner (page 21). Although Industry Canada did not meet legal timelines in responding to the request, the Department did provide the applicant with one complete response within the proposed timeframe, instead of the three-step response process recommended by the Commissioner.

One other complaint (page 28) identifies Industry Canada; but the issue had been transferred to the Office of the Commissioner of Lobbying of Canada in 2006.

**Office of the Auditor General of Canada**

There is nothing to report for 2009-10.

**APPENDIX I — STATISTICAL REPORT ON THE  
ACCESS TO INFORMATION ACT**

## **APPENDIX II — IPRA ORGANIZATIONAL STRUCTURE**

## **APPENDIX III — DELEGATION OF AUTHORITY**