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# Office of Consumer Affairs CONSUMER QUARTERLY

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## Keeping Private Lives Private

**W**hen any of us complete a survey, rent a video or subscribe to a magazine, we give out information about ourselves. With each transaction, we leave a "data trail" of our personal histories and preferences. Companies use and store this information electronically, often without our knowledge or consent. Consumer profiles and personal information are bought and sold in the marketplace within Canada and internationally. Recent examples in the

media of privacy problems include a U.S. judge whose video rental habits were made public, and a customer loyalty program whose members found their personal information left unsecured on the program's Web site.

In this information age, people use the terms privacy, security of personal information and data protection interchangeably. Personal information or data can be any information about an identifiable individual that is

recorded in any form, be it electronically or on paper. Some examples include a person's age, income, religion, financial transactions, medical history or occupation.

For some people, private information is a commodity to buy and sell. Businesses target their marketing efforts at certain customers, so private information is valuable to them. Many consumers, though, are unaware of how valuable private data is or how it can be used.

## Is My Privacy More at Risk Than Before?

A majority of Canadians say they have less privacy in their lives than they did 10 years ago. This is largely due to the development of technology that has changed the way we do everyday things. Data can now be collected and stored on virtually every transaction that we make in the marketplace. Electronic cards are more and more common, making it possible for our movements to be tracked. Our wallets are bulging with magnetic-stripped cards of all kinds, for financial transactions or to accumulate air miles or customer loyalty points.

In everyday transactions, businesspeople ask us for our telephone number, social insurance number, address and driver's

licence number and we provide them — often without knowing or asking what will be done with this personal data. Through advances in computers and telecommunications, personal information can now be quickly and inexpensively collected, processed and transmitted.

As consumers and citizens we need to know that we have some control over our personal information, and we want to be assured that it enjoys a basic level of protection. We need to be confident that the companies we do business with are following some basic privacy protection rules.

## What Canadians Think of Privacy Protection

Eighty percent of Canadians think personal data should be kept strictly confidential.

Sixty-five percent of Canadians think it is "not at all acceptable" for companies to sell, trade or share detailed lists of personal information with other organizations.

Nine in ten Canadians strongly disapprove of companies trafficking in information about their private lives without their consent.

Ninety-four percent of Canadians feel it is important to have safeguards to protect personal information on the Internet.

Source: Angus Reid Survey, July 1998

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## What is Privacy Invasion?

Privacy invasion occurs when individuals or organizations use our personal information without us being aware of it and without us agreeing to its use. Our personal information is our own — anyone collecting it should be required to ask for our consent.

Here are just a few examples of the types of personal information available to people and businesses willing to look for it or pay for it:

- information about the mortgage on our house
- the sites we visit on the Internet
- a list of the purchases we make on our credit cards.

## Canada to Enshrine Privacy Right into Federal Law

Currently, the federal government and most provinces have legislation governing the collection, use and disclosure of personal information held by governments, but not by the private sector. To date, Quebec is the only province that has adopted comprehensive privacy legislation that applies to the information held by the private sector.

Bill C-54, the Personal Information Protection and Electronic Documents Act, which was introduced in Parliament on October 1, 1998, will change all that.

If passed, the law would apply to commercial activities that involve personal information, and would make the entities engaging in those activities accountable for how they collect, use and disclose personal information.

The law would apply first to the federally regulated sectors of banking, telecommunications and interprovincial transportation (e.g. airlines). Three years later, the law would apply to all commercial activities across the country except those in provinces and territories that have adopted similar privacy protection legislation. This phased-in approach would allow provinces to enact their own laws. If they do not, the federal law would apply to all commercial transactions, ensuring privacy protection for all Canadians. Non-commercial personal information concerning health and education is an area of provincial jurisdiction that the federal law does not address.

The new law would also give individuals the right to determine when, how and to what extent they would share information about themselves. Individuals would also have the right to have access to personal information about themselves and to complain to the Privacy Commissioner of Canada when they believe a commercial organization was not complying with the law.

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The new legislation is based on the Canadian Standards Association's (CSA) *Model Code for the Protection of Personal Information*, which was developed by businesses, consumers and governments, and became a national standard in 1996. The CSA is an independent, not-for-profit organization that operates nationally and internationally. It is a leader in the field of standards development and the application of these standards through production certification, quality and environmental management systems registration, and information products.

Canada was the first country in the world to establish a voluntary, national standard for the protection of personal information. Federal, provincial and territorial ministers

## The 10 Privacy Principles According to the Canadian Standards Association

responsible for the Information Highway agreed to support the CSA model code as a minimum standard for privacy protection in all jurisdictions.

The federal government recognizes the value of the voluntary privacy standard and the efforts of the businesses and organizations that adhere to it, but believes that legislative measures must be taken to ensure that all Canadians enjoy privacy protection.

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Privacy protection is good business for both consumers and companies.

Consumers should try to do business with companies that are committed to respecting the basic principles of privacy protection set out below. Companies should be aware that privacy protection is important to their clients.

### **Accountability**

An organization is responsible for personal information under its control and shall designate an individual or individuals who are accountable for the organization's compliance with the following principles.

### **Identifying Purposes**

The purposes for which personal information is collected shall be identified by the organization at or before the time the information is collected.

### **Consent**

The knowledge and consent of the individual are required for the collection, use or disclosure of personal information, except when inappropriate.

### **4. Limiting Collection**

The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.

### **5. Limiting Use, Disclosure and Retention**

Personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by the law. Personal information shall be retained only as long as necessary for the fulfilment of those purposes.

### **6. Accuracy**

Personal information shall be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used.

### **7. Safeguards**

Personal information shall be protected by security safeguards appropriate to the sensitivity of the information.

### **8. Openness**

An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.

### **9. Individual Access**

Upon request, an individual shall be informed of the existence, use and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

### **10. Challenging Compliance**

An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization's compliance.

*Source: Your Guide to CSA's Privacy Code. CSA Consumer Services. March 1997.*

## **Consumer-focussed Legislation**

The Privacy Commissioner of Canada is already responsible for overseeing access to information and privacy laws as they apply to the federal government. Under Bill C-54, this mandate would be extended. The Commissioner would oversee the application of the privacy legislation as it applies to transactions in the private sector, receive and investigate complaints from consumers, and mediate disputes.

A mandate for public education/information has also been given to the Commissioner as part of Bill C-54. In his submission to the Standing Committee of the House of Commons reviewing the proposed legislation, Privacy Commissioner Bruce Phillips said, "The research and education role is critically important. If individuals do not understand the many ways in which their informational privacy is threatened, public appreciation of and support for the privacy-enhancing measures of the bill will not crystallize. In the end, individual privacy will be the loser."

## **Quebec Privacy Protection**

In 1994, Quebec passed an act respecting the protection of personal information in the private sector (*Loi sur la protection des renseignements personnels dans le secteur privé*). The Act grants individuals a right of access to personal information held by businesses operating in Quebec. It also regulates the collection, use and disclosure of personal information. The provincial access to information commission (la Commission d'accès à l'information) oversees the legislation and is responsible for conducting investigations and settling disputes.

The *Quebec Charter of Human Rights and Freedoms*, which came into force in 1975, enshrines a general right to privacy for residents. The right was also enshrined in Quebec's Civil Code in 1991. Quebec is the only province with such an extensive range of privacy protections.

# International Privacy Rules

Globalization, particularly the growth in international trade in services, and in the expansion of multinational companies, means that personal information often crosses national borders. For example, a company in one country may use a service provided in another country to store and maintain its customer databases. Unfortunately, some countries offer no safeguards to protect this type of information.

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*In 1995, the European Union passed its Data Protection Directive to protect personal information and harmonize privacy laws among its 15 member states.*

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In 1980, the Organisation for Economic Co-operation and Development addressed this challenge by developing Guidelines on the Protection of Privacy and Transborder Flow of Personal Data. Canada's Bill C-54 follows these internationally accepted guidelines, and Quebec's privacy legislation also meets them.

In 1995, the European Union passed its Data Protection Directive to protect personal information and harmonize privacy laws among its 15 member states.

The directive, which came into force on October 25, 1998, can prevent data flow to countries in which adequate privacy protection is not ensured. Bill C-54 is intended to set a standard for the protection of personal information that protects Canadians when their information moves beyond Canada's borders. Consequently, it would allow Canadian business wider access to markets abroad with strong privacy protection for their citizens.

## For Further Information

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## The Best Protection is to be Alert

Be aware that some individuals or businesses may collect, use or trade information about you without your knowledge or consent.

Be aware of the kind of information, and how much, you are disclosing about yourself. Surveys and warranty registration cards that require you to provide personal information are often used by companies to create consumer profiles, which they may sell to other companies.

Before you submit personal information, always find out how it will be used.

Do not give out personal information unless you receive a satisfactory explanation of why it is required and how it will be used.

Do not automatically give out your social insurance number. There are very few legitimate occasions when you are required to provide it. Social insurance numbers are only required in very specific circumstances relating to federal government activities such as income tax collection and income security programs.

When surfing, E-mailing or shopping on the Internet, assume your communication is public, unless you use encryption software.

## To Find Out More...

### Privacy Commissioner of Canada

Toll-free: 1-800-267-0441

Web site: <http://www.privcom.gc.ca>

### Electronic Commerce Task Force

Web site: <http://e-com.ic.gc.ca/english/privacy/632d1.htm>

This Web site links to sites of the provincial privacy commissioners (click on Provincial & Territorial Activities).