

QUEBEC COMMISSION URGES LAW FOR PRIVATE SECTOR

Québec's Commission on Access to Information has declared its support for a law on the protection of personal information in the private sector. Commission President, Paul-André Comeau, explained to PL&B that his Commission's September statement, which follows in an edited version, is in response to a consultation by Québec's National Assembly's Committee on Institutions which has scheduled hearings for October 15, 23, and in the New Year when Comeau himself is due to give evidence to the Committee. If passed, a comprehensive law in Québec supporting an individual's personal data rights would be the first in North America.

In Québec, the second part of the *Access to Documents held by Public Bodies and the Protection of Personal Information Act* (R.S.Q. c. A-2.1) regulates privacy in the public and semi-public sectors. Nothing comparable has been done for the private sector.

Québec's original approach to the protection of personal information, the passage of its new Civil Code as well as the European Community's draft directive, both likely to enter into force in 1994, are forcing Québec legislators to take a closer and more urgent look at the protection of personal information than at any time in the past. The Commission declares that such action is in the interest of all Québécois and on it depends the competitiveness of Québec's industrial sector, its eyes on world markets, and the nature of its democratic society.

In the opinion of the Commission, Québec must take immediate steps to draft general legislation whose major goal would be to bring together rights and obligations that are already recognized. Such legislation would extend to the private sector everything that has been accomplished so far with regard to personal information gathered and held by the public and semi-public sectors and entrust the role of ultimate authority in this area to a quasi-

judicial organization, the Commission on Access to Information.

The general legislation recommended by the Commission would be based on the principle of confidentiality, and on the rights and obligations that stem from it: the right to information, the right of access, the right of correction and the right of consent.

Disclosure rules

All Québec companies and corporations would be subject to the universal framework created by this legislation. A specific set of rules would cover the disclosure of personal information.

1. In cases of *occasional* disclosure, companies would be required to provide the Commission on Access to Information with a statement to this effect. For example, this would apply to a video club which sold its subscriber list, on one particular occasion, to a pornographic magazine.
2. In cases of *regular* disclosure (for example, an airline or credit bureau), companies would have to comply with specific rules to be determined by discussions between the different sectors.

The right of recourse to law would be guaranteed. Should a company or corporation refuse to comply, the legislation would provide for easy and uncomplicated statutory review procedures, and for sanctions, or for damages in the event of grave or consequential offences.

Changes for companies necessary

The Commission is aware that this general extension of personal information legislation to the private sector will result in or provoke changes in behaviour and outlook in Québec society. Substantial changes in the running of Québec's companies and corporations will be necessary if Québec is to maintain its ability to choose among the new technologies. Indeed, it is the only way for Québécois to exert intelligent and complete control over their privacy rights.