



Canada's direct marketers call for national privacy legislation

In October, The Canadian Direct Marketing Association (CDMA) became the first industry group in Canada to call for national privacy legislation that would establish basic principles for the protection of personal information in the private sector. Such a law would include how personal data should be collected, retained, kept up-to-date, used and disclosed. The CDMA believes that "such legislation would be good for business. Canadian consumers need to have confidence that when they do business with anyone in this country the information they give will be managed ethically and securely. Building and maintaining that consumer confidence is essential for all Canadian business."

Direct marketing, often called "home shopping" is practised by catalogue marketing companies, publishers and music clubs, financial institutions, charities, mail-order firms and increasingly, by retailers interested in building stronger on-going relationships with their customers. The CDMA initiative builds on its 1993 Privacy Code because its members "want satisfied customers who will continue to have confidence in their integrity."

Standards set by OECD and CSA Codes

Two influential models for future privacy legislation in Canada are:

1. the 1984 Organisation for Economic Cooperation and Development (OECD) Guidelines on the Protection of Privacy and Transborder Flows of Personal Data
2. the Draft National Code for the protection of personal data developed under the auspices of the Canadian Standards Association (CSA) (PL&B Feb.1995 p.2).

The CDMA is calling on the federal government to enact a set of privacy principles as framework legislation that would require each industry sector to develop a specific code. Each code would reflect the needs of the individual sector and meet the standards set by the OECD and/or draft CSA codes.

CDMA President, John Gustavson, said, "Subsequently we will ask each province except

Quebec, which has its own legislation, to pass identical laws to govern the private sector within its jurisdiction."

Why is the CDMA calling for a privacy law now?

When asked why the CDMA is expressing this concern now, he replied, "Fundamental changes in our society are taking place in an era of information technology. More and more we are seeing the inter-relation of databases and growth in the accumulation of transactional data. All Canadians have the right to know about and consent to the collection of personal information about them."

The Canadian Government agreed to an international set of privacy principles in 1984. It then passed legislation affecting the public sector and asked the private sector to develop voluntary codes. The request was met by massive inaction. As far as we know, CDMA is the only industry association with a compulsory code. We have shown it can be done, and now we have a carefully negotiated model code from the CSA to follow. It is time to create a level playing field for all sectors."

How would a legislated national standard operate in practice?

"The framework legislation we have proposed would describe a set of principles under which personal information would be collected and used. Each industry sector would reflect the principles of the model code in the operations of that sector." This provides the flexibility for sectors to develop solution for their own circumstances.

"For instance, one way CDMA members respect the third principle of the model code, which states that consent is required for the collection, use, or disclosure of personal information, is by offering consumers the opportunity to block the transfer of personal information to other marketers. We also provide consumers with an opportunity to stop solicitations by our members through our "Do Not Mail/Do Not Call" service. Although the CDMA does not have any marketing lists itself, it forwards the names of consumers who register for this deletion service to our members every three months. CDMA members must take the names, addresses and phone numbers off their marketing lists."



Enforcement yes, bureaucracy no

John Gustavson envisages relatively few problems of enforcement, and that these can be dealt with by a fairly small investigation team and some sort of registration board.

When asked directly how the new privacy code compares with Quebec's privacy legislation, he replied that the two are entirely compatible and companies abiding by the new code will more than meet the requirements of the Quebec law (p. 13).

Canada's Privacy Commissioner welcomes CDMA's support

Privacy Commissioner, Bruce Phillips, welcomes the CDMA's support for the federal government to pass a national privacy law for the private sector. He writes:

"This is a courageous stand by an organisation that has been a leader in developing codes of practice for its members - including a compulsory privacy code in 1993. The CDMA's position recognises that national privacy standards will serve the private sector's interests.....and would also bring Canada into line with other jurisdictions with private sector privacy rules, including such

trading partners as the European Community, Australia and New Zealand.

There is a growing recognition that an information-based economy demands data protection rules. No organisation - government, private business or the voluntary sector - should expect to gather, mine, manipulate and sell personal data without being held accountable to those whose lives are detailed in its databases."

The CDMA, founded in 1967, represents a broad cross-section of companies and distributive trades in Canada's direct response marketing industry. Its 500 corporate members are responsible for over 80% of direct marketing activity in Canada. Canadians purchase over \$49.1 billion in goods and services annually through direct response media.

**Further details about the CDMA privacy initiative are available from Scott McClellan, Director of Communications, CDMA, 1, Concorde Gate, Suite 607, Don Mills, Ontario, Canada, M3C 3N6
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Internet and e-mail addresses

This year, several Data Protection/Privacy Authorities have created Internet sites, including:

Australia: Mr Kevin O'Connor, Privacy Commissioner,
Internet: privacy.gov.au

Canada: Mr Bruce Phillips, Federal Privacy Commissioner, Ontario,
Internet: <http://info.ic.gc.ca/opengov/opc/privacy.html>

New Zealand: Mr Bruce Slane, Privacy Commissioner,
Internet: <http://www.kete.co.nz> or <http://www.kete.co.nz/privacy/welcome.htm>

Norway: Mr Georg Apenès, Director General,
Internet: <http://www.uio.no/~jonnyb/personvern/tilsyn.html>

Switzerland: Mr Odilo von Guntern, Data Protection Commissioner,
Internet: <http://www.eunet.ch:80/edsb/>

United Kingdom: Mrs Elizabeth France, Data Protection Registrar,
E-mail: data@wycliffe.demon.co.uk
Internet: <http://www.open.gov.uk/dpr/dprhome.html>

Canada: Mr David Flaherty, Information & Privacy Commissioner, British Columbia,
Internet: <http://www.espresso.cafe.net/gvc/foi>

Canada: Mr Tom Wright, Information and Privacy Commissioner for Ontario,
Internet: <http://www.opc.on.ca>

USA: Mr Gerald Gates, Chairman, Privacy Working Information Policy Committee,
E-Mail: ggates@info.census.gov