

## NEW LEGISLATION

February 2004

### Personal Information Protection and Electronic Documents Act (“PIPEDA”)

#### 2004 ASSESSMENT APPEAL DEADLINE

Commencing January 1, 2004, the federal Personal Information Protection and Electronic Documents Act (“PIPEDA”) applies to organizations that collect, use, and disclose personal information and personal health information, in Canada, in the course of commercial activities. PIPEDA may eventually be replaced by provincial legislation which is substantially similar, but which is more detailed and addresses specific issues that are within provincial jurisdiction.

Organizations must assess their current practices with respect to the collection, use and disclosure of personal information about customers, and review and revise their customer agreements and related documents and policies in order to comply with the detailed privacy protection standards the legislation contains.

It is important to note that PIPEDA will not apply to businesses in relation to their employees unless they are federal works or undertakings. However, with the likely prospect of provincial privacy legislation applying to employee information, many businesses are developing privacy compliance programs that relate to both their customers and employees.

The following is a summary of the steps that must be taken in order to comply with PIPEDA.

#### Responsibilities

1. Comply with all of the following 10 principles of PIPEDA:

- Accountability
- Identifying purposes
- Consent
- Limiting collection
- Limiting use, disclosure, and retention
- Accuracy
- Safeguards
- Openness
- Individual access
- Challenging compliance

2. Appoint an individual (or individuals) to be responsible for your organization's compliance (a “Privacy Officer”).

3. Protect all personal information held by your organization or transferred to a third party for processing.

4. Develop and implement personal information policies and practices.

#### Implementation

You should give your Privacy Officer senior management support and the authority to intervene on privacy issues relating to any of your organization's operations and communicate the name or title of this individual internally and externally (e.g. on web sites and in publications).

Secondly, conduct an audit. Analyze all personal information handling practices including ongoing activities and new initiatives, using the following checklist to ensure that they meet fair information practices:

- What personal information do we collect?

- Why do we collect it?
- How do we collect it?
- What do we use it for?
- Where do we keep it?
- How is it secured?
- Who has access to or uses it?
- To whom is it disclosed?
- When is it disposed of?
- Do we get consent?

Thirdly, develop and implement an external privacy policy and procedures to protect personal information:

- define the purposes of its collection,
- obtain consent,
- limit its collection, use and disclosure,
- ensure information is correct, complete and current,
- ensure adequate security measures,
- develop or update a retention and destruction timetable,
- process access requests,
- respond to inquiries and complaints.
- include a privacy protection clause in contracts to guarantee that the third party provides the same level of protection as your organization does,
- inform and train staff on privacy policies and procedures, and
- Make information available explaining these policies and procedures to clients and customers (e.g. in brochures and on web sites).

### **Further Particulars**

The articles and comments contained in this article provide general information only and should not be relied upon as legal advice. Further particulars on the matters summarized in this report, their implications and suggested courses of action, can be obtained from Jonathan Zepp at (416) 360-3396 or e-mail: [jzepp@robapp.com](mailto:jzepp@robapp.com). If there is anyone that you know who would like to be placed on our mailing list to receive a copy of this newsletter, please do not hesitate to contact us at (416) 868-1080 ext. 530.

