



March 29, 2018

Standing Committee on Justice Policy  
Legislative Assembly of Ontario

Sent by email to: [comm-justicepolicy@ola.org](mailto:comm-justicepolicy@ola.org)

**RE: Ontario Bill 14 - Personal Information Protection Act, 2018**

Dear Committee:

The Canadian Marketing Association (CMA) recognizes the important task assigned by the Parliament of Ontario to the committee in assessing the merits of introducing a private sector privacy law in Ontario.

Privacy legislation is important in both ensuring that private-sector organizations collect personal information with care and respect for privacy, and also fostering a business-friendly environment where organizations can be innovative and competitive.

**Respectfully, the committee should consider:**

- Having a thorough dialogue with stakeholders, including industry and other regulators responsible for privacy, to properly assess whether such legislation is needed in Ontario, and
- Assessing whether this law would create confusion among consumers and generate unnecessary burdens for businesses and not-for-profit organizations, given that Canada's federal privacy law already applies in Ontario.

Privacy and consumer protection are issues that our members take seriously, and CMA is an adamant supporter of privacy legislation. We were one of the main proponents of introducing privacy legislation in Canada and we have been very actively involved in the passing of the *Personal Information Protection and Electronic Documents Act* (PIPEDA) at the federal level.

We believe that business needs and economic prosperity need to be balanced with ensuring that consumer protection measures are strong. As such, [CMA's Code of Ethics and Standards of Practice](#), mandatory for all of our members, includes requirements on maintaining consumer data. Most of the privacy-related requirements within our Code are based on Canada's federal private-sector privacy law, PIPEDA.

**Current privacy requirements for business**

PIPEDA sets out the ground rules for how businesses must handle personal information in the course of commercial activity. The law provides effective guidance to organizations and allows the Office of the Privacy Commissioner of Canada (OPC) to provide further interpretive guidance as social, technological and business developments require.

Recent amendments to the law introduced in 2015 provide consumers with additional protections including mandatory breach notification set to go into force this year. The Act also extended the powers of the Privacy Commissioner to enter into compliance agreements with organizations.

**Current consumer privacy protections**

PIPEDA already provides Canadians with a robust privacy regime. Here are a few key protections guaranteed by PIPEDA:

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- Organizations covered by [PIPEDA](#) must obtain an individual's consent when they collect, use or disclose that individual's personal information.
  - People have the right to access their personal information held by an organization and have the right to challenge its accuracy.
  - Personal information can only be used for the purposes for which it was collected. If an organization is going to use it for another purpose, they must obtain consent again.
  - Organizations must ensure that information will be protected by appropriate safeguards.
  - Express/ opt-in consent is needed for the collection, use and disclosure of information deemed sensitive (health, financial, etc.)
  - An individual may complain to the Office of the Privacy Commissioner of Canada about any alleged breaches of the law. The Commissioner can then investigate, enter into compliance agreements, and if the case is not resolved he/she can take the matter to federal court.

### **Negative impacts of an Ontario privacy legislation**

Introducing privacy law in Ontario poses several challenges and the implications need to be carefully assessed. From a business perspective, the need of organizations to collect, use and disclose personal information is key to business growth and success, and for delivery of value. Introducing a duplicate legal privacy regime puts an unnecessary strain on businesses and not-for-profit organizations. It would put a significant damper on organizations' ability to be innovative, create more red tape, and introduce confusion in the marketplace. Organizations would need to dedicate significant resources to ensure compliance, while providing limited, if any, additional protections to consumers.

From a consumer perspective, introducing provincial legislation would not create additional privacy protections. As mentioned above, Ontarian consumers are currently protected by Canada's PIPEDA and have a plethora of educational resources at their disposal to inform themselves of privacy rights and protections. Moreover, it is important to note that the federal government is currently conducting a review of PIPEDA and additional privacy enhancing requirements are being sought. Proposed changes are currently being assessed and analyzed by the OPC, industry and consumer advocates.

We thank you for considering our comments. If you have questions or require further information, please contact Cristina Onosé, Director of Government Relations at [conose@thecma.ca](mailto:conose@thecma.ca) or 416-644-3748. **With this letter, we are also indicating our intent to appear before the committee and to be included in any further dialogue pertaining to this matter going forward.**

Respectfully,

**John Wiltshire**

Canadian Marketing Association  
[jwiltshire@theCMA.ca](mailto:jwiltshire@theCMA.ca)

### **About the CMA**

The Canadian Marketing Association embraces Canada's major business sectors and all marketing disciplines, channels and technologies. The Association's members make a significant contribution to the economy through the sale of goods and services, investments in media and new marketing technologies and employment for Canadians. Against this backdrop, the Canadian Marketing Association is the national voice for the Canadian marketing community, with CMA's advocacy efforts designed to create an environment in which responsible marketing can succeed.