

Privacy and Standards: A Regulator's Viewpoint

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Office of the
Privacy Commissioner
of Canada

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Outline

- Introduction
- Role/mandate of the Office of the Privacy Commissioner of Canada (OPC)
- Regulatory Challenges
- The Role of Standards
- Questions



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Role/Mandate of OPC

- OPC oversees Privacy Act and PIPEDA
 - Privacy Act applies to federal institutions
 - PIPEDA governs personal information management in commercial activities in private sector
- OPC mandate is to ensure federal public and private sector organizations are held accountable for handling of personal information in their custody



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Role/Mandate of OPC

- OPC is an independent ombudsman
 - Reports directly to Senate and House of Commons
- As ombudsman, OPC:
 - Investigates and initiates complaints, conducts audits and verifies compliance
 - Is a public educator and advocate for both organizations and individuals



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Role/Mandate of OPC

- As ombudsman, OPC:
 - Is a researcher and expert advisor to Parliament, government and business
 - Is an advocate for privacy principles in litigating application and interpretation of privacy laws
 - Analyzes legal and policy implications of bills and government proposals



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Regulatory Challenges



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Regulatory Challenges

- General evolution of technology
 - Size, speed, capacity
- Speed of technological evolution
- Impact of convergence
 - Gives rise to new applications, implementations
 - (Law of) Unintended Consequences



Regulatory Challenges

- Result of technological evolution is that vast quantities of personal information can now be collected, used, disclosed, retained
 - any of which can be moved anywhere, at any time



Regulatory Challenges

- Trans-border data flows are increasingly complex
 - Detection
 - Identification
 - Location
 - Jurisdiction
 - Enforcement



Regulatory Challenges

- Different regulatory regimes for privacy in Canada and elsewhere
- “Separation of duties”
 - Between establishing standards and enforcement
- Resource issues

The Role of Standards



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The Role of Standards

- Much discussion re role of standards within International Conference
 - Two resolutions (Wroclaw, Poland 2004 and Montreal, Canada 2007)
- Also much discussion re role of Conference members in standards development



The Role of Standards

- Standards as tool to assist organizations to establish and demonstrate compliance
 - Caveat: compliance with standard not same as compliance with law
- Standards as basis for individual and organizational certification (e.g., ISO 27001)



The Role of Standards

- **Key benefit** - standards provide for degree of consistency, both for implementers and regulators
 - Guidance for consistent implementation of fair information principles
 - Guidance for audit, investigation



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The Role of Standards

- Standards must be:
 - Consistent with legislation
- Standards should be:
 - An exercise in confidence and trust building
 - Designed to the highest common denominator



Questions?

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