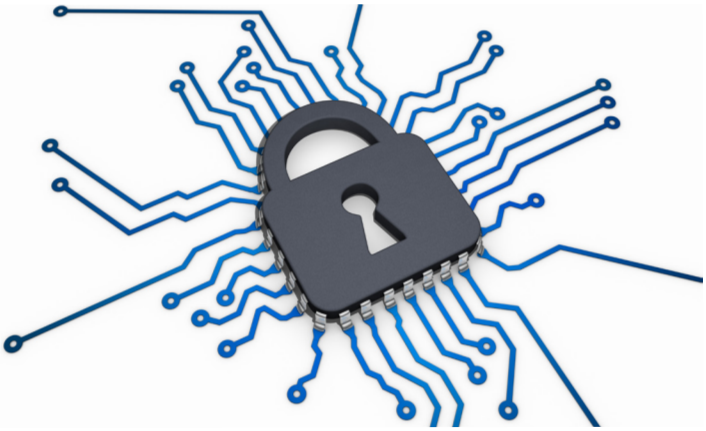
Time to Revamp Your Online Privacy Disclosures



On May 8, 2014, the Federal, British Columbia and Alberta Privacy Commissioners published new guidelines for organizations on how to obtain meaningful consent from individuals in the online environment to the collection, use and disclosure of their personal information. The guidelines followed a 2012 study by the Office of the Federal Privacy Commissioner ("OPC") of popular Canadian websites. The study found that the privacy practices were not effectively communicated to users and concluded that companies were "struggling" with the issue of online consent.

The published guidelines reflect the 10 principles of the federal *Personal Information Protection and Electronic Act* (PIPEDA) as well as the corresponding provincial legislation, the *Personal Information Protection Act* of British Columbia and Alberta. Generally the guidelines encourage openness and transparency as the key to obtaining meaningful consent. Although there are many guidelines, the following are few key points in connection with privacy policies:

- **Revamp Your Privacy Policies.** The guidelines describe a historic trend toward privacy policies that are "overly long", "opaque and legalistic". Privacy policies should present information in a way that can be readily understood by the average person by using "clear explanations, a level of language suitable to a diverse audience, and easily readable font size". Privacy policies should be conspicuous and easily accessed by users not just from PCs but rather from all devices, including smart phones, tablets and gaming devices. User should be notified of any significant changes to policies before they come into effect. Finally, as a best practice, the guidelines recommend companies perform periodic audits to ensure their policies accurately describe how they are handling personal information.
- **More Than Just Privacy Policies.** The guidelines make it clear that privacy policies are not a complete answer to satisfying the obligation to be transparent about privacy practices. The guidelines encourage companies to use a variety of mechanisms throughout the user experience such as: "just-in-time notifications" (e.g. an explanation of why the user is asked to provide information at the time it is collected), layered notices (a condensed notice which gives users the option of "clicking through" the notice for more detail) and intuitive icons (standardized icons to help users to quickly decide whether to engage with a website).
- **Privacy Policies on Child and Youth-Oriented Website.** In another context, the OPC has made the point that it is unrealistic to expect children and youth to understand long and legalistic privacy policies. The recommendation that policies be written with an appreciation of the audience is especially critical with child and youth-oriented websites. The OPC has encouraged companies to consider "innovative and interactive techniques devised specifically with youth in mind, and with the goal of informing them of the privacy implications of their decisions before they click".

The new guidelines can be found here:
www.priv.gc.ca/information/guide/2014/gl oc_201405_e.asp ■

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