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Bill Will Bring Long Overdue Privacy Protections for Canadians

OTTAWA – February 27, 2013. The Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC) welcomes the announcement of proposed amendments to Canada's federal privacy legislation, the *Personal Information Protection and Electronic Documents Act* (PIPEDA). The proposals will bring long overdue privacy protections for Canadians, including a comprehensive data breach notification regime and, critically, much needed enforcement powers for Canada's privacy laws.

A long-enduring and central gap in Canada's privacy protections is the ongoing inability of the Privacy Commissioner to force non-compliant organizations to meet their privacy obligations. In addition, the lack of any realistic possibility of penalties for ignoring PIPEDA means there is minimal incentive for proactive compliance. "When forced to choose between taking on compliance costs or simply waiting to see if they get 'caught in the act', the cost-benefit analysis organizations undergo will often weigh in favour of adopting a 'wait and see' approach," said David Fewer, Director at CIPPIC.

"The Privacy Commissioner's existing toolkit is no longer well-suited to the high stakes data protection enforcement activities that she is called on to take these days," said Tamir Israel, Staff Lawyer at CIPPIC. "The lack of any real penalty for ignoring federal privacy rights is not only out of touch with privacy enforcement in other countries, such as the United States and across Europe, but also with the successful models used by our own provincial privacy commissioners."

In addition, the lack of a comprehensive data breach notification regime puts Canadians personal information at great risk. Experience from jurisdictions around the world has demonstrated that a legal obligation to notify individuals when their data has been put at risk is an essential component of any privacy protection regime. Not only does this notification requirement provide an opportunity for individuals to take protective measures against privacy harms ranging from identity theft to great embarrassment, but it also provides a poignant incentive for organizations to put in place the practical and technical mechanisms necessary to avoid such breaches in the first place.

This private members bill, introduced by Charmaine Borg, MP (Terrebonne-Blainville)(NDP), fills these gaps in our federal privacy regime that have been left open for far too long.

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