



Canadian Internet Policy and Public Interest Clinic  
Clinique d'intérêt public et de politique d'internet du Canada

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Jennifer Stoddart  
Privacy Commissioner of Canada  
112 Kent Street  
Place de Ville  
Tower B, 3rd Floor  
Ottawa, Ontario  
K1A 1H3

BY MAIL AND E-MAIL

Dear Commissioner Stoddart:

**Re: Disclosure of personal information on CRTC website**

We are concerned about the Canadian Radio-Television and Telecommunications Commission's (CRTC) practice of publishing personal contact information provided by individual interveners on its website. We believe that this practice may violate the *Privacy Act*, but that even if it does not constitute a legal breach, it may be unnecessarily and inappropriately privacy-invasive. We therefore ask that you review the situation and provide your opinion as to both the application of the law, and best practices that the CRTC (and government agencies facing the same challenges) should adopt.

**Facts**

Prior to raising this issue with you, we communicated our concerns to the CRTC. You will find our initial letter and their reply attached to this correspondence. The facts and issues are set out in these two documents. Repetition in full is therefore unnecessary; and we ask that you rely on these letters for details of the relevant facts.

In brief, the CRTC posts on its website all information submitted by interveners in public proceedings, including names, addresses and other personal contact information provided by the intervener. The Commission makes no effort to excise personal contact information from submissions before posting them online. Instead, it relies upon standard notices on its website, in

its public notices, and in e-mail reply messages, in order to inform interveners of its publication practice.<sup>1</sup>

## **Issues**

*We identified three issues in our initial letter:*

1. The Commission's default approach of posting personal contact information online (with notice) does not reflect the reasonable expectation of many - possibly most - individuals when they submit comments on issues that are the subject of a public proceeding.
2. The Commission cannot ensure that all individuals submitting comments are aware of the publication policy. This is particularly true in the case of comments sent in by fax or postal mail. It is also true of comments sent in by e-mail, since (a) the notice is sent only after the comment is received, and (b) the notice is contained in a standard form, auto-generated, bilingual message that includes other highlighted information. Therefore, the Commission should not assume that individuals have consented to the posting of their personal information online.
3. The CRTC's "all or nothing" approach to posting comments with personal information requires individuals to make an unnecessary and inappropriate trade-off between their personal privacy on one hand, and the submission of comments to the CRTC (or the public posting of those comments) on the other hand.

CIPPIC proposed that the CRTC revise its policy regarding the treatment of the personal information supplied by individuals commenting on public processes in order to ensure that the personal information of interveners is not being published online without their knowledge and consent. Specifically, we suggested that the CRTC strip such comments of personal contact information (and possibly names) before posting the submissions on its website, unless explicitly requested otherwise by the individual.

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<sup>1</sup> Although the CRTC claims otherwise in response letter to CIPPIC dated 29 April 2005, its warnings regarding the publication of personal information differ according to whether they are made in *Broadcasting* or *Telecommunications* Public Notices.

*Telecommunications* public notices specifically refer to the publication of personal information as follows (See attached examples):

### **Important**

All information submitted, including your name, e-mail address, and any other information not submitted under a claim for confidentiality, will be posted on the Commission's website. Documents received in electronic format will be posted on the Commission's website exactly as you send them, and in the official language and format in which they are received. Documents not received electronically will be available in .pdf format.

However *Broadcasting* public notices merely state as follows (See attached examples):

The Commission will make comments filed in electronic form available on its web site at [www.crtc.gc.ca](http://www.crtc.gc.ca) but only in the official language and format in which they are submitted. Such comments may be accessed in the Public Proceedings section of the CRTC web site. Copies of all comments, whether filed on paper or in electronic form, will also be placed on the public examination file.

## **The CRTC's Response**

In response to our letter, the CRTC defended its practice on the grounds that posting the personal contact information of individuals is necessary in order to maintain the transparency and accountability of its public processes. The CRTC also rejected our proposals stating that they would significantly increase administrative effort, and that the publication of such personal contact information has been "useful to parties and the public by allowing them to identify forged interventions or to judge the reliability of the statements" therein. The CRTC also stated that it was reasonable to assume that a party submitting a response to a public notice was aware of the CRTC's policy of posting all of the party's personal contact information.

We acknowledge that this issue is not black and white. Balancing the privacy concerns of individuals against the need for transparency and accountability in public processes requires careful consideration. However, we do not believe that the CRTC's response sufficiently addresses the potentially serious invasions of privacy that may result as a product of its current policy.

## **Privacy Concerns**

The Internet presents opportunities for information collection and abuse that simply do not exist in the offline world. For example, unlike in the offline world, personal information, once posted online, is permanently exposed to identity thieves, spammers, and automated 'e-mail harvesting' programs. These concerns pose a serious threat to the security and privacy of individuals.

Given the CRTC's mandate under the *Telecommunications Act* "to contribute to the protection of the privacy of persons" (subs s.7(i)), we believe that the Commission has a particular responsibility to ensure that the utmost care and consideration is given to these issues.

## **Evidence of the Problem**

In our initial letter to the CRTC, we explained that the CRTC's policy was first brought to our attention by an individual who sent comments to the CRTC by e-mail some years ago, after hearing a news story on an issue being considered by the CRTC at that time. Her comments were treated by the CRTC as responding to the public notice on that issue, and were posted on the CRTC website. Almost four years later, to her great surprise and consternation, she was contacted by a complete stranger who informed her that her personal contact information (name, phone number, fax number, e-mail address, city and province) was publicly available on the CRTC website. In response to her complaint, the CRTC removed her submissions from its website but did not change its policy as she had requested.

At page 33 of the 2003-2004 Privacy Commissioner of Canada's *Annual Report to Parliament*, there is a report about a nearly identical complaint that was investigated by the OPCC. As a result of that individual's complaint, the CRTC removed her information from its website, and engaged in a prolonged effort to have Google remove her information from its archives. The OPCC closed the file and marked it "settled during the course of investigation." No determination was made as a result of the investigation as to the appropriateness of the CRTC publication policy and its legality under the *Privacy Act*, and the CRTC continues to post personal contact information of interveners on its website.

## Proposal

For the reasons set out in our letter to the CRTC, the Commission cannot guarantee that all individuals making submissions in the public notice processes are aware of its publication policy. In our view, the CRTC should therefore (and indeed may be required under the *Privacy Act* to) strip the personal information from the submissions before posting them to its website. Openness, accountability and transparency can be achieved by posting the names of the authors associated with submissions, without their personal contact information. This personal contact information would of course still be held by the CRTC and thus would be available in order to investigate potentially fraudulent submissions.

If the OPCC finds that the CRTC is justified in posting individuals' personal contact information, we submit that, at a minimum, the CRTC should adopt the following best practices in order to ensure that the impact on those individuals' privacy is limited as much as possible:

1. Change the standard warning provided in *Broadcasting* notices, to the more complete model used in *Telecommunications* notices.
2. Rather than obscuring the location of the online privacy and publication policies behind a link entitled 'Important Notices', entitle the link 'Important Notices and Privacy Policy'; or provide a separate link for "Privacy Policy".
3. Consider posting submissions in 'graphics only' .PDF format (rather than in the currently employed 'searchable' .PDF format, or as Word documents). As a graphic, the .PDF files would be unsearchable by *most* 'e-mail harvesting' programs that rely on text to identify addresses.

## Other Government Bodies

This complaint is focused on the CRTC. However, it raises an issue that, no doubt, is relevant to many federal departments. We therefore request that you issue a policy directive to all federal bodies on the issue of posting the personal information of individual interveners on websites.

Thank you for your time and attention to this matter. We await your response to our concerns. Please feel free to contact us at any time if you have any questions.

Sincerely,

*original signed*

Philippa Lawson, Executive Director

*original signed*

Jeremy Schwartz, CIPPIC Intern

cc: John Keogh, CRTC General Counsel  
Attach.