



July 15, 2005

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

Dear Commissioner Stoddart,

**Re: InfoCanada**

Pursuant to section 11 of the *Personal Information Protection and Electronic Documents Act* (*PIPEDA* or the "Act"), we request that you investigate InfoCanada, an information brokerage company that sells lists of personal information about Canadian consumers to marketers. Based on our review of the company's publicly available materials as well as our attempts to find out more about InfoCanada's policies and practices regarding data collection, use and disclosure, we have strong reason to believe that InfoCanada fails to comply with Principles 8 (Openness) and 3 (Consent) of Schedule I and with section 5(3) of *PIPEDA*.

InfoCanada advertises itself as "Your one-stop source for the finest Canadian/U.S. Business & Consumer Databases and Database Marketing Services Available Today!" It claims that its database includes 11 million "unduplicated" Canadian households, "over 70 different demographic selections", and "a number of demographic and psychographic selections not available together on any other consumer file". Selection options include "contact name, demographics from census overlays (such as income, family composition, age, etc.), home value, telephone number, gender, language, geography, and more." (See Attachment 1).

InfoCanada also states in its brochure: "Our files combine multiple sources for the highest degree of accuracy and maximum coverage." It is not clear how extensive these "multiple sources" are. We understand that InfoCanada collects names, addresses and telephone numbers from telephone books then matches this information with aggregated data from Statistics Canada to create "many unique, valuable niche lists for direct marketers". InfoCanada refreshes its lists using the National Change of Address service and the Canadian Marketing Association's Do Not Contact service.

*Principle 8: Openness*

*“An organization shall be open about their policies and practices with respect to the management of personal information. Individuals shall be able to acquire information about an organization’s policies and practices without unreasonable effort.”*

InfoCanada fails to meet the Openness Principle in a number of respects.

First, InfoCanada provides very little information on its website or in other publications about its policies and practices regarding the management of personal information. The "Security and Privacy Statement" on its website sets out company policies regarding the collection and use of customer and "visitor" information, but does not specify how it collects, uses and discloses the personal information that it compiles into consumer lists (See Attachment 2). There is no other publicly available material that specifically describes how the company collects, uses and discloses personal information.

Second, the company does not appear even to have a policy setting out its practices regarding the compilation and sale of personal information on marketing lists. Upon request for such information, InfoCanada provided us with a half-page description of *PIPEDA* entitled "Canadian Privacy Legislation" that it supplies to its customers (See Attachment 3). The document, which InfoCanada refers to as its "Privacy Letter", concludes that "because the Canadian Database has been compiled from telephone directories, the use of this information is allowed without obtaining the consent of each individual in the database". It does not describe InfoCanada’s information practices or policies.

Third, InfoCanada is resistant to inquiries about its practices. CIPPIC students contacted the company on a number of occasions by e-mail and telephone to find out about its information management practices. The company chose not to answer some questions and provided incomplete or misleading answers to other questions (See Attachments 4 and 5). For example, InfoCanada's Privacy Officer failed to provide an answer to a question about what InfoCanada does internally with data (See Attachment 4, Q.6). In another case, InfoCanada's Privacy Officer denied that the company merges personal information with other data (See Attachment 5, Q.4). InfoCanada also misrepresented the fact that it uses census data as a source of information by saying "The only source of information is the telephone books". (See Attachment 4, Q.16). The Privacy Officer only admitted that the company uses census information when pressed about how InfoCanada obtains demographic information about individual phone records (Telephone conversation between Dixie Ho and Daniel Cadieux (Privacy Officer), June 2, 2005).

*Principle 3: Consent*

*“The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.”*

*PIPEDA* exempts organizations from obtaining consent for the collection, use and disclosure of personal information (names, addresses and phone numbers) if the personal information qualifies as "publicly available information" (sections 7(1)(d), 7(2)(c.1), 7(2)(h.1)). InfoCanada collects personal information from telephone books, which qualifies as "publicly available information" under the *Regulations Specifying Publicly Available Information*, section 1(a).

InfoCanada also collects aggregated demographic information from Statistics Canada, which does not identify individuals, but is specific to geographic locations with as few as forty residents (See Attachment 6). Because this information is not specific to individuals, it is not considered "personal information".

Neither of these actions is problematic under *PIPEDA*. However, InfoCanada then matches the publicly available personal information with geographically-specific demographic statistics, thus "personalizing" the previously non-personal demographic information. By doing so, it creates "personal information" (information about identified individuals), inaccurate as that personal information may be. This act of creating personalized demographic information through data-matching, in our submission, invokes *PIPEDA*, such that the use and disclosure of this newly created "personal information" requires consent. In our view, InfoCanada's failure to obtain consent leads to a violation of Principle 3 of Schedule 1 to *PIPEDA*, and does not fall into any of the exceptions set out in the *Act*.

Principle 4.3.5 of the Consent Principle states that the reasonable expectations of an individual should be considered when obtaining consent. According to its brochure (See Attachment 1, p. 3), InfoCanada classifies demographic information into over 70 categories, including income, ethnicity, age and number of children in a household. Because InfoCanada uses and discloses detailed and extensive demographic information, it is submitted that a reasonable person would expect consent to be obtained before such information about them is compiled and sold in the marketplace. Further, according to Principle 4.3.6, when sensitive information is collected, used and disclosed, consent should be explicit. InfoCanada uses extensive demographic information including information on income. Because of the sensitivity of this information, explicit consent may be required in order to comply with the Consent Principle. Because InfoCanada fails to obtain consent, it is in clear violation of Principle 3 of Schedule 1 to *PIPEDA*.

*Section 5(3): Inappropriate Purpose*

*"An organization may collect, use or disclose personal information only for purposes that a reasonable person would consider are appropriate in the circumstances."*

InfoCanada states that its purpose for collecting personal information is to "sell it to our customers for their sales and marketing efforts" (See Attachment 5, Q. 1). InfoCanada sells its lists to anyone who is willing to pay for them (Attachment 4, Q.11). While it states that the use to which customers put the lists "has to be legal and in accordance with all privacy legislation" (Attachment 4, Q.12), it is unclear whether customer contracts contain such restrictions, and the reality in any case is that InfoCanada has no control over its customers' uses. InfoCanada's lists could be used, despite their admitted inaccuracy, for purposes other than marketing, to make decisions about individuals. For example, CSIS could purchase InfoCanada lists to try to identify individuals who might pose threats to Canada's national security. Insurance companies could use personalized demographic information to deny coverage to households that meet certain demographic criteria. Other companies could use this data to "redline" geographic areas and deny opportunities to individuals living on those areas.

In light of the type of information being collected and sold by InfoCanada, the complete absence of individual knowledge of (let alone consent to) the uses to which InfoCanada is putting their personal information, and the lack of controls on to whom such information may be disclosed and for what purposes it may be subsequently used, we, we submit that a reasonable person

would consider InfoCanada's purpose (profit-making) for creating and selling this personal information to be inappropriate.

We await your investigation, findings and response.

Yours truly,

Dixie Ho  
Student Intern  
CIPPIC

Philippa Lawson  
Executive Director  
CIPPIC

*Attachment 1: InfoCanada brochure, [www.infocanada.ca](http://www.infocanada.ca), printed July 11, 2005.*

*Attachment 2: InfoCanada "Security and Privacy Statement", printed July 14, 2005.*

*Attachment 3: Copy of InfoCanada's "Privacy Letter" provided to customers.*

*Attachment 4: Copy of email response from Daniel Cadieux, InfoCanada Privacy Officer, March 28, 2005.*

*Attachment 5: Copy of email response from Daniel Cadieux, InfoCanada Privacy Officer, April 8, 2005.*

*Attachment 6: "Understanding the Data," [www.statcan.ca](http://www.statcan.ca), printed July 11, 2005.*