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Standing Committee on Alberta's Economic Future
c/o Jody Rempel, Committee Clerk
3rd Floor, 9820 – 107 Street NW
Edmonton, Alberta T5K 1E7

Via E-mail: economicfuture.committee@assembly.ab.ca

Dear Ms. Rempel:

Re: Response to the Review of the *Personal Information Protection Act*

Equifax Canada Co. ("Equifax") wishes to thank you for allowing it to participate in and offer some thoughts on the review of the *Personal Information Protection Act* ("PIPA").


About Equifax

Equifax is a credit reporting agency and is a subsidiary of Equifax Inc., a publicly traded company listed on the New York Stock Exchange. Equifax is the largest credit reporting agency in Canada and an industry leader in ensuring that the privacy and security concerns of Equifax customers and consumers are properly protected. Equifax issues credit reports throughout Canada and its territories and its credit reporting activity is regulated by Provincial legislation. The privacy practices and procedures of Equifax are regulated at the federal level by the Privacy Commissioner of Canada pursuant to the *Personal Information Protection and Electronic Documents Act* ("PIPEDA"), as well as the relevant provincial privacy legislation.

General Comments

Attached you will find commentary which Equifax offers in response to some of the questions posed in the Discussion Guide. We hope that the Standing Committee finds the following to be helpful and, of course, are available should you wish to discuss these or any other matters of concern.

Yours truly,



John Russo
Vice-President, Legal Counsel and Chief Privacy Officer

Consent

Question: Are the exceptions to consent for the collection, use, and disclosure of personal information appropriate? Please explain why or why not and provide suggestions.

While we are of the opinion that PIPA offers satisfactory exceptions with respect to this issue, we would be supportive of any amendment which would serve to provide clarification.

Companies which house sensitive personal information on consumers (such as the information contained within the Equifax Consumer Credit Reporting Database) are likely to favour any assistance which they could receive in clarifying situations where they can, or must, distribute such information without the consent of the consumer(s) in question.

With respect to credit reporting specifically, we certainly would be appreciative if any efforts made in this regard would be made in conjunction with those Provincial bodies which regulate credit reporting.

In our opinion, the provisions relating to collection, use and disclosure of personal information would be clarified by aligning more closely to the exceptions set out in PIPEDA. For example, a provision which would benefit from clarification is the exception to disclosure without consent for the purposes of preventing fraud as set out in section 20(n) of PIPA.

We would recommend this provision align more closely with section 7(3)(d.2) of PIPEDA which allows for the disclosure of personal information without the individual's knowledge or consent if the disclosure is to another organization, and is reasonable for the purpose of detecting or suppressing fraud. This sharing of information would allow organizations to better investigate and identify individual criminals and fraud rings in order to prevent loss for both Canadian consumers and businesses alike.

Notification of a Breach of Privacy

Question: Are the provisions of PIPA regarding notification of a breach of privacy appropriate? Please explain why or why not and provide suggestions.

Equifax recognizes the value in informing individuals when their personal information has been compromised. For your information, our corporation has assisted over 200 organizations over the past 18 months in protecting their affected constituents during a breach.

One issue that we would like to raise for consideration is the role of the credit reporting agency (the "CRA") in these matters. More specifically, the question for us is the role of the CRA where the loss of personal information results not from any action of the CRA, but rather from the actions of some organization other than the CRA.

To that end, we would recommend the inclusion of a provision similar to the recent amendments to the PIPEDA whereby an organization that has experienced a breach of security safeguards involving personal information under its control is required to notify any other organization if the notifying organization believes that the other organization may be able to reduce the risk of harm that could result from the data breach or mitigate that harm.

In our view, Equifax is an organization that is well positioned and able to reduce or mitigate the harm to individuals arising from a data breach as we offering consumer credit monitoring, identity alerts, and other services that can help the consumer protect their identity.

The cost of a notification process can be significant because the individuals must be identified, located and then notified. As a CRA, Equifax is in a unique position to assist both organizations and consumers alike who have been affected by a security or data breach.

To ensure that we are able to help organizations respond quickly to protect consumers, Equifax proposes that PIPA permit an organization to disclose an individual's personal information to CRA's without consent when his or her information has been compromised. This will allow the organization and the CRA to take immediate steps to protect affected individuals, without the delay caused by obtaining consents. This can help minimize the risk of identity fraud.

Additionally, Equifax endorses the position that the personal information of affected individuals can be passed on to CRA's without consent for the purpose of protecting CRA files. This is currently a gap in the law that needs to be identified and amended.

Conclusion

If the review will involve substantial changes to the structure and content of PIPA, Equifax would appreciate the opportunity to be further involved in the review process in order to assist and ensure that the proper interaction of the credit reporting system with privacy regulation is maintained.

We would be pleased to provide further input and be involved further in the review process.