

## Joseph Hickey - OCLA

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**From:** Joseph Hickey - OCLA [joseph.hickey@ocla.ca]  
**Sent:** March 20, 2013 5:12 PM  
**To:** 'Charmaine.Borg.A2@parl.gc.ca'  
**Subject:** RE: C-475



Dear Ms. Charmaine Borg and Mr. Sebastian Ronderos-Morgan,

Thank you for contacting the Ontario Civil Liberties Association (OCLA) about the 2nd reading of your Bill C-475.

We fully and unconditionally support your endeavour to have Bill C-475 approved in Parliament, and we offer our congratulations on this effort to hold organizations accountable in regards to their responsibilities to protect Canadians' personal information.

In addition to our support, we have the following recommendations, which we feel would strengthen the proposed bill. In reference to your numbered list of "four innovative measures" proposed by Bill C-475, we recommend:

- i) That the phrase "where there is a possible risk of harm to the affected individual(s)" be removed from item 1, such that organizations would be required to notify the Privacy Commissioner in the case of any breach to the security of personal information;
- ii) That a third item be added between items 2 and 3, which would require the Privacy Commissioner to maintain a publicly accessible list of breaches to the security of personal information. This list would be updated once per year, included as an appendix to the Commissioner's annual report, and would identify the organization where the security breach occurred and a short description of the nature of the security breach; and
- iii) That the text of Bill C-475 be modified to reflect these modifications.

Please keep us informed of your progress regarding Bill C-475, and I would be pleased to meet with you at a mutually convenient time in the upcoming weeks. I propose a date between April 2-5.

### **About the Ontario Civil Liberties Association**

OCLA is an organization formed to defend civil liberties at a time when fundamental freedoms are subjected to a systemic erosion in all spheres of social life. OCLA opposes institutional decisions that remove from the individual his or her personal liberty or exclude the individual from participation in the democratic functions of society.

Yours truly,

Joseph Hickey  
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**From:** Charmaine.Borg.A2@parl.gc.ca [mailto:Charmaine.Borg.A2@parl.gc.ca]  
**Sent:** March 12, 2013 4:02 PM  
**To:** joseph.hickey@ocla.ca  
**Subject:** C-475

Dear Mr. Joseph Hickey & the Ontario Civil Liberties Association,

On February 26, 2013, I introduced Bill **C-475**, an *Act to amend the Personal Information Protection and Electronic Documents Act (order-making power)*, to the House of Commons with the objective of bringing Canada's privacy law into the digital age. Bill C-475 will see its first hour of debate at Second Reading on Monday, April 15<sup>th</sup>, 2013 and a vote a second reading is expected before the end of May.

With the advent of new digital technologies, Canadians are spending more and more time online. According to comScore's 2013 *Canada Digital Future in Focus* report, Canadian internet users spend an average of 41 hours a month browsing the web, second only to the US in world rankings. As you well know, we are an increasingly digitized society.

However, according to a 2011 joint-study by Telus and the Rotman School of Business, the Canadian private sector has seen the overall number of data breaches grow since 2008. In 2011, for instance, each publicly-traded organization surveyed in the study suffered an average of 18 breaches to the personal information they hold of Canadians. Furthermore, the Privacy Commissioner of Canada, in her yearly reports to Parliament, continues to identify numerous instances of non-compliance by organizations with Canadian privacy law. Currently, the law does not guarantee that Canadians will be notified when the security of their personal information is compromised, and no regulatory sanctions exist against organizations that do not comply with Canadian privacy law.

While this country can be proud of its engaged digital society, I'm sure you'll agree that it's time for Parliamentarians to equip Canadians with the tools they need to secure their online experience and participate fully in the digital economy.

Bill C-475 proposes four innovative measures to achieve this goal:

1. Require organizations to notify the Privacy Commissioner of any breach to the security of personal information where there is a possible risk of harm to the affected individual(s);
2. Allow the Privacy Commissioner to order organizations to notify affected individual(s) of a data breach if an appreciable risk of harm is found;
3. Create order-making powers to be used by the Privacy Commissioner to enforce the *Personal Information Protection and Electronic Documents Act* in the event that an organization mishandles the personal information of Canadians ; and
4. Empower the Federal Court to impose fines in cases of non-compliance with an enforcement order issued by the Privacy Commissioner.

According to the *2011 Canadians and Privacy Survey*, commissioned by the Office of the Privacy Commissioner of Canada and conducted by Harris/Decima, the measures proposed in Bill C-475 already have the support of Canadians. The survey finds "*An overwhelming majority favour tough sanctions against organizations that fail to properly protect the privacy of individuals. More than eight in 10 respondents wanted to see measures such as publicly naming offending organizations, fining them, or taking legal action against them.*"<sup>[1]</sup>

In addition to public concern, Bill C-475 also responds to the recommendations repeatedly expressed by witnesses and experts, notably Jennifer Stoddart, the Privacy Commissioner of Canada, who appeared before ETHI Committee as part of the study on privacy and social media in 2012.

Bill C-475 was crafted to achieve a workable balance between two crucial elements: the advancement of privacy rights in the digital age and the preservation of the collaborative relationship between the Office of the Privacy Commissioner and industry. I am glad to say that the measures within Bill C-475 have already received the support of important stakeholders such as Michael Geist, Openmedia.ca, the Union des Consommateurs and the Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic (CIPPIC).

As we move forward with the campaign to bring Canada's privacy law into the digital age, I look forward to speaking with you further about Bill C-475 and privacy protection in Canada. Please communicate with my Legislative Assistant, Sebastian Ronderos-Morgan ([charmaine.borg.a2@parl.gc.ca](mailto:charmaine.borg.a2@parl.gc.ca) or 613 797-3644) to find a time to continue the conversation.

Yours sincerely,



*Charmaine Borg*

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<sup>[1]</sup> 2011, PIPEDA Annual Report to Parliament by the Office of the Privacy Commissioner of Canada