



THE
CANADIAN
PRIVACY
INSTITUTE

Improved privacy, potential headaches

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As a chartered accountant, Louis Isabella is constantly being asked to forward clients' personal information all over the place, whether to banks or mortgage companies.

If it lands in the wrong hands, it would be a problem, mostly for the client.

That all changes as of Jan. 1, however, when the Personal Information Protection and Electronic Documents Act (PIPEDA) comes into effect.

When that happens, it will be Isabella--and other small and mid-sized businesses like his--on the hook for any privacy breaches.

Although the act has been in effect for federally regulated industries, such as banks, and organizations that disclose information outside a province since 2001, it will now apply to all organizations in Canada (except those in B.C., Alberta and Quebec, which already have similar legislation in place) as of the New Year.

To help Isabella comply with the act--and protect his four-person firm from potential privacy challenges--he is using software called **eConsent**. The software is a Web-based offering available on a monthly subscription basis. Isabella is currently building it into the Web site he is designing.

Clients will be able to link from his site to his privacy centre, where they can provide consent for him to handle their personal information. 'It provides the whole history,' he explains. 'I will be able to go back and see when the consents were given and if consents were given at the proper time. If they have been documented properly, I'll be OK. It will make it easier to deal with any challenges because I think this is going to be a bureaucratic nightmare and I have enough bureaucracy to deal with. If someone is going to take some of it off my hands, I'm thrilled.

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Isabella sees the software as a way for him to be proactive. He says he has always been worried about the potential misuse of client information.

'We've got 350 clients that we do all kinds of things for, including their tax returns. We handle a lot of private information. I think it's important for us to have proper consent from our clients so they know and I know they're OK with what I'm doing,' he says.

Unfortunately, few small businesses in Ontario share Isabella's awareness of the privacy issue, says Kathy Tuit, vice-president of sales and a co-founder of the company that built eConsent.

'We typically use the analogy that Y2K had a huge media scare for a deadline that turned out to be nothing,' she says. 'Privacy is the reverse situation. There has been very little media attention given to this. As organizations get challenges from individuals and they start to go to the Privacy Commissioner, we're going to start to hear reports or verdicts--and that's when we're going to hear about how scary this really is.'

eConsent, she says, which can be used by the smallest of organizations for about \$150 per month, to the largest--one client is commercial real estate firm Royal LePage Commercial Inc.--addresses the three main areas of the privacy legislation: defining how an organization is going to collect and use a client's personal information; providing online consent; and challenging management.

It can be integrated with a company's back-end systems, such as its customer relationship management or its human resource management systems, or it can function as a stand-alone.

According to Ian Turnbull, director of the [Canadian Privacy Institute](#), there are currently few alternative privacy management software tools for small businesses. The privacy legislation, he notes, is 'administratively incredibly complex.'

Companies that don't find an affordable tool will end up trying to patch together Excel spreadsheets and trying to track the process manually, he predicts. And that's not a good strategy, he says.

The institute, a private organization comprised of mostly HR professionals and people with general management auditing backgrounds, provides education and consulting on privacy issues and laws with a focus on practical rather than legal implications.

For companies that don't want the headache of trying to manage privacy laws while dealing with the other day-to-day headaches of running a business, it offers another alternative.

The company does privacy assessments to tell client firms where they stand in terms of their privacy readiness, Turnbull says. It will work with them to create a plan and decide how to communicate that plan to the client's customers and employees.

'We'll go even further for some smaller or medium organizations that don't have the resources to manage this,' he says. 'We will be their agent, we will name one of our people as their chief privacy officer, we will receive the complaints and we will do the internal investigations.'

Not for free, of course.

But the alternative to either doing it yourself or getting someone else to do it--meaning not doing it at all--can be extremely expensive, Turnbull warns.

Failing to protect a customer's privacy can result in fines, at the very least. But the damage to your company's reputation can take a far greater toll, says Turnbull.

Because the privacy legislation will be complaints-driven--the federal government is only going to take action if a complaint is lodged--a lot of companies are not worried about implementing privacy processes until the need arises, he says.

But companies not only have the obligation to help their customers know what information they have collected and why, they also must help them if they have a complaint or concern.

If customers are not satisfied with the way a company is performing, and if they can't find the right person to talk to about their complaints, they can go to the Privacy Commissioner.

'Really the biggest issue for most organizations is do you want to be known as the organization that is not protecting the personal information of your prospects, your customers and your employees?' Turnbull says. 'I don't think [most businesses] want go near that.' ¹

Interested in e-Consent? Visit our web-site: www.canadianprivacyinstitute.ca/software.html

¹ Excerpts from the Toronto Star Article, Improved Privacy, Potential Headaches of December 16, 2003