



September 12, 2005

The Honourable Gérard La Forest, C.C., Q.C.
Stewart McKelvey Stirling Scales
Suite 600, Frederick Sq.
77 Westmorland St.
P.O. Box 730
Fredericton NB E3B 5B4

Dear Mr. La Forest,

I am writing for the National Privacy and Access Law Section of the Canadian Bar Association (CBA Section) concerning your review of the merits of combining the responsibilities of the Information Commissioner and the Privacy Commissioner. The CBA is a national association of over 34,000 lawyers, notaries, law teachers and students, and our mandate includes seeking improvements in the law and the administration of justice.

In our view, any consideration of a merger of the Offices of the Privacy and Information Commissioners must be justified in terms of whether it can contribute to better enforcement of the *Access to Information Act*, the *Privacy Act* and the *Personal Information Protection and Electronic Documents Act*. Further, it cannot result in any direct or indirect reduction of resources dedicated to the enforcement of those laws.

The protection of individual privacy is an increasing concern for Canadians. Strong access to information legislation and the enforcement of that legislation are cornerstones of transparency and accountability in government. Given the Prime Minister's public commitment to democratic renewal, these factors are especially relevant at present. Reorganizations can disrupt any organization, and the possible implications of a merger on the important work of the Offices of the Privacy Commissioner and the Information Commissioner should be carefully considered.

As well, we suggest that ongoing law reform initiatives should be considered to ensure that the requirements of legislative changes could be adequately addressed within such a merger, and sufficient resources devoted to enforcement. The Information Commissioner intends to provide the House of Commons Standing Committee on Access to Information, Privacy and Ethics with proposals for a revised *Access to Information Act* in September 2005. The Minister of Justice may also table proposed changes to that legislation this fall. At the same time, the Privacy Commissioner's Office is issuing

500 - 865 Carling, Ottawa, **ONTARIO** Canada K1S 5S8

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findings to assist in interpreting Part 1 of the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and continuing its mandate with respect to the *Privacy Act* and the treatment of personal information held by the federal government. PIPEDA is scheduled for legislative review in 2006.

Given our members' expertise in privacy law and access to information law, the CBA Section is very interested in these developments. We have initiated serious debate about the structural change that you have been asked to consider, and would be pleased to assist you in whatever way possible. We look forward to responding more fully in any formal consultation process that you initiate, and meeting with you at your convenience.

Yours truly,

(Original signed by Gaylene Schellenberg on behalf of John Beardwood)

John Beardwood, Chair
National Privacy and Access Law Section

- c.c. The Right Honourable Paul Martin, P.C., Prime Minister
- c.c. The Honourable Irwin Cotler, P.C., Minister of Justice
- c.c. The Honourable John Reid, P.C., Information Commissioner
- c.c. Jennifer Stoddart, Privacy Commissioner