



## **Information Act reform will affect businesses**

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On the Cutting Edge - Brian T. D. Bowman

JUSTICE John Gomery's final report into the Liberal sponsorship scandal will be available to the outgoing Martin government and to Stephen Harper's incoming Conservative minority today.

This important development will, among other things, likely add fuel to the pace and scope of expected reforms to Canada's Access to Information Act.

All Canadians, including business leaders, should take note.

In his first report, Gomery concluded that there had been "a veil of secrecy surrounding the administration of the sponsorship program and an absence of transparency in the contracting process." He also uncovered "deliberate actions to avoid compliance with the Access to Information Act."

As a result, Gomery claimed that greater openness of government activities might have reduced the chances of the sponsorship scandal happening in the first place.

This echoes similar criticism of the Liberals by the Information Commissioner of Canada, who has claimed there is a "culture of secrecy" in Ottawa. In fact, the Information Commissioner was forced to go to court several times to pry information from the government.

That is why the Information Commissioner has recommended reforming the Access to Information Act. And it is why Gomery's final report is also expected to recommend steps to strengthen the act.

Canada's Access to Information Act requires federal government bodies to provide individuals with access to information held by government.

Other laws at the provincial level and affecting private-sector businesses also create access to information rights.

These laws are an important feature of a modern democratic state. And for this reason they should be valued by all Canadians, regardless of political stripe.

In the case of Canada's Access to Information Act, it is supposed to force governments to be open and transparent, thereby holding them accountable for their actions.

Canadians understand this concept -- the new Conservative government was elected last week under a platform of restoring accountability in Ottawa.

As part of their accountability platform, the Conservatives promise to expand the coverage of the Access to Information Act to all Crown corporations, officers of Parliament, foundations, and organizations that spend taxpayers' money or perform public functions.

The Conservatives also promise to ensure that all exemptions from the disclosure of government information are justified only on the basis of the harm or injury that would result from disclosure, not blanket exemption rules.

To add teeth to the reforms, they also promise to provide the Information Commissioner with new powers to order the release of information.

Indeed, information is power. Businesses and governments know that this is true and that is why so many resources are used to access and, in some cases, block information from public view.

Increasingly, businesses are using access to information laws as a strategic tool to gain access to government and industry data, as well as information about competitors.

With the anticipated reforms to the Access to Information Act, expect more businesses to take advantage of the rules to gain competitive advantage.

Conversely, businesses that provide services to or receive funding from the federal government will increasingly fall under the scope of the act, thereby exposing even more sensitive commercial information to the public and competitors.

Whether businesses are seeking information from government or trying to maintain the confidentiality of their commercial information, the expected reforms will be of great relevance.

Businesses should develop offensive and defensive competitive intelligence strategies to both acquire and protect sensitive information.

Not only do the expected reforms to the Access to Information Act present opportunities and risks for businesses, they will also create greater openness and transparency in government activities. Hopefully, this will prevent another sponsorship scandal from ever occurring again.

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