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## **Business must take steps to prevent I.D. theft**

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***On the Cutting Edge / Brian Bowman***

IN January I wrote that 2007 could be the year that Parliament would amend the Personal Information Protection and Electronic Documents Act (PIPEDA). With Canadians increasingly concerned about identity theft and a parliamentary committee recommending reform, Canadian businesses should brace themselves for new privacy law requirements.

Identity theft has been referred to as the "crime of the 21st century" and, according to the Privacy Commissioner of Canada, is affecting millions of victims across North America each year.

Major privacy breaches such as the Winners/HomeSense data heist only raises the fears of Canadians when it comes to the theft of their personal information. But are these fears rational? New polling on the subject would appear to confirm that such fears are, in fact, quite rational.

A recent poll on identity theft conducted by the Montreal-based firm SOM (Survey, Opinion Polls and Marketing) and commissioned by Sigma Assistel revealed some disturbing, but not surprising, results.

According to the poll, close to one in 15 Canadians (seven per cent) has been a victim of identity theft and nearly one in six Canadians (16 per cent) know someone who has been a victim of identity theft.

Understandably so, Canadians are concerned. Members of the House of Commons committee on access to information, privacy and ethics have heard this concern and appear, to some extent, to be taking it to heart. That is why the committee is recommending reforms to PIPEDA.

On May 2, the committee issued its report on the statutory five-year review of PIPEDA.

The report "does not advocate dramatic changes to PIPEDA at this time," but provides some "fine-tuning." Nonetheless, the fine-tuning in the report includes

some notable reforms that, if adopted by Parliament, will affect businesses that suffer data breaches.

Many Canadians would be surprised to learn that PIPEDA does not expressly require businesses that suffer a data breach to notify those individuals whose personal information has been lost or stolen. The concept is known as "breach notification." Without having a breach notification requirement, individuals cannot take actions to protect themselves such as cancelling credit cards and having new social insurance numbers issued.

As a result, the report recommends a process where businesses that have suffered certain defined data breaches would have to notify the Privacy Commissioner of Canada.

Upon being notified, the commissioner would then make a determination as to whether affected individuals and others should be notified and if so, in what manner. The report also recommends that consideration be given to introducing penalties for business that fail to notify.

The federal government has the task of responding to the report, which must be done within 120 days of its release. The public is clearly concerned about identity theft. For this reason, I expect the breach notification recommendation, or a slightly modified version of it, to be supported by the government in the coming weeks.

Businesses should ensure that their privacy compliance programs are updated and ready for the expected reforms to PIPEDA.

If steps are not taken now to combat the theft of personal information that businesses hold about their customers, they could find themselves in an embarrassing situation if they suffer a data breach after the expected breach notification requirements come into force.

The best advice is to mitigate having to worry about breach notification by preventing such a situation from occurring in the first place. If more businesses took these steps, there would likely be fewer victims of identity theft and the fears of Canadians would be reduced.

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