

OPC reorganization – what does it mean?¹

On Friday, April 6 the federal Office of the Privacy Commissioner announced a new organizational structure. Following upon the recent report of the House of Commons ETHI Committee recommending overhaul of PIPEDA (*Personal Information Protection and Electronic Documents Act*) and the past month's Facebook revelations, the announcement has received some attention.

The changes to the OPC's organizational structure are quite significant. We sensibly may ask then, how will they advance the cause of privacy protection in Canada?

In a telephone conversation, Privacy Commissioner Daniel Therrien highlighted the key reasons for the changes and how they align with the OPC's priorities going forward.

What are the changes? Most striking is the streamlining of the OPC's protective mandate activities into two divisions: the Compliance Sector and the Policy and Promotion Sector. Each will be headed by a "Deputy Commissioner" – a new position within the OPC. Commissioner Therrien indicated that this dichotomy of investigations and compliance activities on the one hand, and policy development and outreach guidance on the other, is how the OPC believes it best can fulfil its key role of protecting privacy rights.

Previously, the Office was organized into "Branches": the Privacy Act Investigations Branch, the PIPEDA Investigations Branch, the Audit and Review Branch, and – what clearly had become an amalgam of several functions – the Legal Services, Policy, Research and Technology Analysis Branch. Each branch was headed by a Director.

In the new structure, each Sector's operational responsibilities will be executed through "Directorates" reflecting it is hoped an efficient allocation of responsibilities, minimizing duplication of effort. The Compliance Sector will comprise two Directorates – Privacy Act Compliance (Executive Director – Sue Lajoie) and PIPEDA Compliance (Executive Director – Brent Homan). The Policy and Promotion Sector will be responsible for five Directorates – Government Advisory (Lara Ives – Acting Director), Business Advisory (Director – Abubakar Khan), Policy, Research and Parliamentary Affairs (Director – Barbara Bucknell), Technology Analysis (Director – Luk Arbuckle) and Communications (Executive Director – Anne-Marie Hayden).

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Separate from the two new protective mandate “Sectors” will be the Legal Services Directorate, headed by General Counsel Julia Barss, reporting directly to the Commissioner.

As we have seen in the past year, the OPC is staking out a more interventionist course. What I heard from the Commissioner was that while this includes, importantly, more proactive enforcement activities – such as Commissioner-initiated investigations and OPC audits, of equal if not greater importance will be the analysis/research/guidance functions, carried out through the new Policy and Promotion Sector. The Commissioner sees this enhanced focus on analysis and guidance as a critical adjunct to a more activist approach to enforcement of PIPEDA.

It can be surmised that both sides of the coin will be pertinent, if not essential, to the OPC’s continuing to make privacy compliance a relevant and effective response to evolving digital media challenges, such as chronicled in the recent Facebook “scandal”.

The designation of the new “Deputy Commissioner” role enhances the OPC’s two key focuses by making clear that each will be the responsibility of a senior second-tier authority within the Office. The previous second tier title was “Assistant Commissioner”, of which there were two – for Privacy Act Compliance and PIPEDA Compliance respectively. It also may be felt that this new Deputy Commissioner designation will import additional *gravitas* both within the Office and publicly – to drive forward the Commissioner’s priorities.

Neither of the Deputy Commissioners has been appointed yet – a selection process is underway. Clearly, there are potential candidates within the OPC who have the credentials to qualify. However, the OPC has reached outside the Office previously for senior appointments including from other government agencies such as the Competition Bureau.

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