



Office of the Information and
Privacy Commissioner of Alberta



OFFICE OF THE
INFORMATION &
PRIVACY COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency

June 2, 2014

Mike Wallace, MP
Chair, Standing Committee on Justice and Human Rights
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6

Dear Mr. Wallace,

We are writing to you as independent regulators and oversight agencies responsible for protecting the privacy rights of more than 20 million citizens in our respective jurisdictions. We are deeply concerned that Bill C-13, the cyberbullying and “lawful access” Bill, will pass Committee stage without hearing from the Privacy Commissioner of Canada, the Commissioner’s staff, or any other Privacy Commissioner in this country.

Bill C-13 will have far-reaching implications for all citizens in the years to come. It is imperative that the privacy risks it raises be articulated and thoroughly examined on behalf of all Canadians.

Some of our concerns about Bill C-13 relate to amendments to the *Criminal Code* that would increase the investigative powers of law enforcement, often on low suspicion-based thresholds, including:

- Data preservation and demand orders;
- New production orders to trace a specified communication;
- New warrants and production orders for transmission data and tracking;
- Enhancing efficiencies in relation to authorizations, warrants and orders.

We also believe that Bill C-13 will entrench and possibly encourage the expansion of warrantless disclosure of private sector data to law enforcement by providing broad immunity for such practices.

You may recall that similar provisions were proposed in 2012 in Bill C-30, the so-called lawful access legislation. Bill C-30 was vigorously opposed by many Canadians and civil society groups, and was also a cause of great concern to Privacy Commissioners across Canada. Ultimately, the Bill was withdrawn. The law enforcement provisions of Bill C-13 revive most of those in Bill C-30, again raising serious concern for many Canadians.

What we have seen time and time again from this government is the suggestion that surveillance powers need to be modernized. Unfortunately, what the government doesn't appreciate is that transparency and accountability must also be modernized, and featured prominently.

We are alarmed that these issues will not be articulated or presented to Parliamentarians for examination in the absence of a Privacy Commissioner of Canada. Representation from independent, expert privacy regulators is imperative for the Committee's study of this Bill, as is the participation of legal experts, academics, and civil society groups.

Given the heightened and pressing interest in Bill C-13, we urge the Committee to postpone hearings on Bill C-13 until such a time as the Privacy Commissioner of Canada can appear and speak to this Bill. If the Committee is of the view that such a delay is not practicable, we are prepared to give evidence in our capacity as provincial Commissioners in a manner and at a time convenient to the Committee.

In the interests of transparency, we will be making this letter a matter of public record.

Sincerely,



Dr. Ann Cavoukian
Information and Privacy Commissioner for Ontario



Jill Clayton
Information and Privacy Commissioner for Alberta



Elizabeth Denham
Information and Privacy Commissioner for British Columbia

pc. Members of the Standing Committee on Justice and Human Rights
pc. Jean-François Page, Committee Clerk