Treasury Board wants to ‘modernize’ Privacy Act by legalizing more personal data reuses, sharing

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Kicker: **It would in effect turn the Privacy Act into a data integration act where citizens have less say over use of their personal information. This latest consultation exercise is a more of a reconfirmation of the desired legal shift to share and use more of Canadians’ personal data, writes Ken Rubin**

The recent Treasury Board discussion paper proposes to redo the 1982 Privacy Act by legally giving its more than 250 agencies powers for personal data sharing and reuses as part of a “modernization” makeover.

This would replace siloed, separate departmental privacy regimes that require individual consent for alternative reuses of personal data, while still allowing a long list of third parties access to Canadians’ personal data.

It would in effect turn the Privacy Act into a data integration act where citizens have less say over use of their personal information, how it is linked and manipulated, and how the newer technologies are employed.

The assumption is that the accompanying proposed safeguards—such as mandatory privacy impact assessments, incorporating collecting personal data only when it’s a “necessity” (though no moratoriums are declared), and through declaring privacy a fundamental legal right—will be sufficient requirements to satisfy Canadians that their data is indeed protected.

The trade-off is that it would no longer be a requirement to continually seek individual consent in sharing their personal data, making it easier for government to reputedly deliver services in a more efficient manner.

Bringing Canadians' personal data into one big digital tent has become more pressing for authorities for trade diversification and commercial purposes as other nations and corporations want Canada to have a more seamless approach to data protection.

The discussion paper sees another positive because the public will be notified, eventually, about privacy breaches—breaches that seem to be happening more often.

Skipped over are the growing cyberattacks impacting federally-retained personal data holdings, making Canadians wonder just how secure and safe the data held is.

The proposed central registry to notify the public of personal data holdings is unlikely to give Canadians much confidence as it would come without many details, or bother to specify the number of people affected in each personal data holding.

There is simply no in-depth action review provided of personal data storage and disposal sites, both those inside and outside of Canada, including on how and where personal data is stored or when it is disposed.

To make matters more worrisome, the discussion paper indicates that the government wants to incorporate the use of artificial intelligence in assisting individual service delivery and personal data storage and use.

But it does not specify what AI is actually up to in multi-use cases, and whether AI is really assisting programs and service delivery.

Central is whether AI will introduce more, not less, biases in assisting with the delivery of services and programs; and whether AI

(or, for that matter, quantum technology) can be employed to re-identify personal data that has been encrypted.

Equally of concern, the discussion paper—offhandedly—indicates that the new Privacy Act will no longer have provisions for Canadians to use it to access their personal data or complain about its uses or exemptions. That now would be shuffled off to the Access to Information Act, which is also undergoing a controversial review "modernization."

And the paper also proposes that individuals seeking their personal data would now run the risk of legally being declared "vexatious" (like on the access side) and be unable to gain access to their "own" data.

The paper does devote space to Indigenous people potentially getting a special say in how their personal data is shared and used.

The Treasury Board consultations on the Privacy Act discussion paper close July 10, and the access to information review's consultations end in mid-June.

Any follow up reports would likely not come out until 2027. At that point, there is no laid-out expectation that those reports will be accompanied by concrete recommended legislative amendments.

Some consultations with agencies may likely remain secret, and not all individual submissions will be made public.

Further, Justice Canada already held similar Privacy Act expert consultations in 2019, and public and Indigenous consultations in 2020-21.

As well, the House of Commons Access to Information, Privacy, and Ethics Committee already held hearings in 2016 and issued a report on modernizing the Privacy Act, and another one in 2018-19 on digitalization of services and potential privacy concerns.

So, this latest 2026 consultation exercise is a more of a

reconfirmation of the desired legal shift to share and use more of Canadians' personal data.

With a majority government now in power for a few more years, getting a "modernized" Privacy Act passed should be easier, despite the Act's dual intent that appears to be less about privacy protection and more about tradeable and multi-usage personal data.

The claim that the shift to more centralized use of personal information is harmless and will make authorities more transparent and accountable is open to challenge.

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