



October 26, 2005

The Honourable Gérard La Forest, C.C., Q.C.
Stewart McKelvey Stirling Scales
Suite 600, Frederick Sq.
77 Westmorland St.
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Fredericton NB E3B 5B4

Dear Mr. La Forest,

I am writing for the National Privacy and Access Law Section of the Canadian Bar Association (CBA Section) to thank you for the opportunity to meet earlier this month concerning the merits of combining the responsibilities of the Information Commissioner and the Privacy Commissioner. The CBA is a national association of over 36,000 lawyers, notaries, law teachers and students, and our mandate includes seeking improvements in the law and the administration of justice.

I forwarded my draft speaking notes to your office following the meeting, as requested, but am now able to offer a formal response from the CBA Section.

Initially, your mandate was described as “an arm’s length review of the merits of combining the responsibilities of the Information Commissioner and the Privacy Commissioner into a single office”.¹ The CBA Section was pleased when you indicated that you would approach that mandate broadly to “assess the challenges to the current models of the offices of the Access to Information and Privacy Commissioners”.² This more comprehensive approach is consistent with our view that any re-organization of the two offices should reflect the federal government’s support for strong and vigorous enforcement of both access to information and privacy rights.

As we mentioned in our September 12, 2005 letter, there are several significant legislative initiatives in the areas of access to information and privacy law. New access to information legislation is anticipated in the near future, keeping with the government’s commitment to introduce its own bill to replace Private Members Bill C-201. The Access to Information Commissioner has promised the Standing Committee on Privacy,

1 See “Prime Minister Announces Special Advisor to Review Information and Privacy Mandates” located at <http://pm.gc.ca/eng/news.asp?id=548>

2 See September 15 letter from Hon. La Forest to CBA Privacy and Access Law Section Chair.

Access and Ethics a draft bill for consideration this fall. Further, the review of the *Personal Information Protection and Electronic Documents Act* (PIPEDA) is scheduled to begin in late 2005 or early 2006.

In light of these initiatives, we are of the view that now is not the appropriate time to consider a merger. The risk of disruption caused by any re-organization or merger of the offices would adversely affect their ability to evaluate and respond to these legislative initiatives so as to ensure that the rights of access and of privacy remain protected. Any consideration of the merger of the offices is premature until these specific legislative reviews are completed.

To reiterate the Section's overarching concern, as indicated in our earlier letter, the timing and substance of any changes to the current models should result in improved enforcement of the *Access to Information Act*, the *Privacy Act* and the *Personal Information Protection and Electronic Documents Act* and not in any direct or indirect reduction of resources dedicated to the enforcement of those laws.

Thank you for including the CBA Section in your consultation process. We would be happy to respond to any further questions or concerns.

Yours truly,

(Original signed by Gaylene Schellenberg on behalf of John Beardwood)

John Beardwood, Chair
National Privacy and Access Law Section